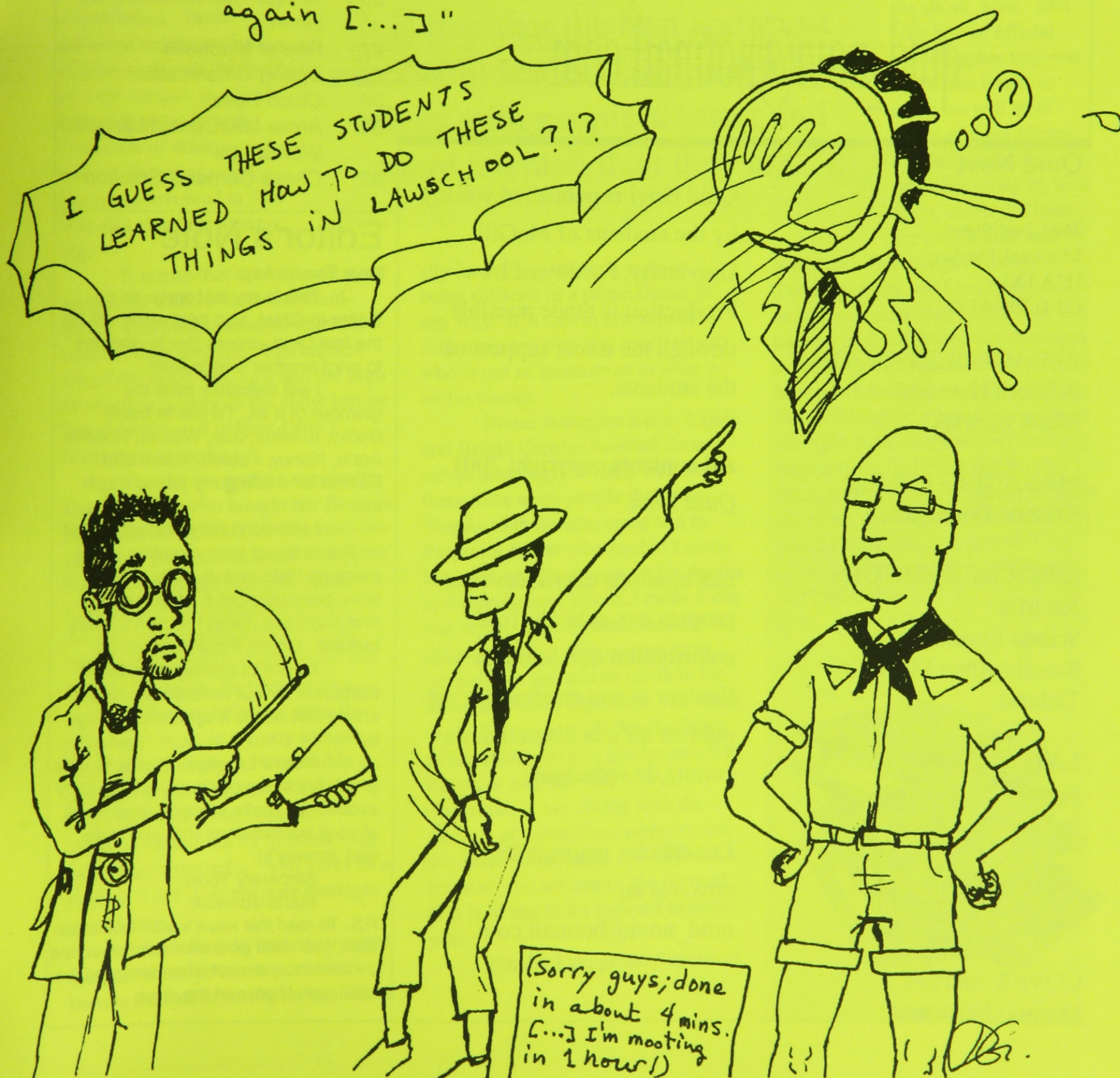


Quid Novi

McGill University, Faculty of Law
VOLUME 22, NO. 19

AMONG THE MANY DEFINITIONS IN MCGILL'S PRIVATE-LAW
DICTIONARY @ SKITNITE:

"You'll never be your pre-lawschool self
again [...]"



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Editor's Note

Dear Everybody,

This is my last week as co-Editor-in-Chief, and next week will be the last Quid, unless Becky decides to print another one in April.

I will definitely miss the glamour of it all. I'd like to thank Becky, Kristine, Joe, Wanda, Rosalie-Anne, Nancy, Fabien, Adam and Dennis for making my job so much fun.

I shouldn't play favourites, but I'd like to direct your attention to the piece by Hala and Jeremy. They have obviously put a lot of thought and effort into it and I think it's pretty brilliant. Check it out on page 8.

I'd like to apologize to Marc Edmunds for our omission of his article last week. It appears on page 6.

I know I always say the Quid is great, but this week's was particularly excellent: I really enjoyed reading all of your submissions (not just Hala and Jeremy's).

Sincerely Yours,
Marta Juzwiak.

P.S. To read this week's *Man in Amsterdam*, you must go backwards, sentence by sentence, except when you read the discussion between the dogs.

Sold Out

by Lawna Hurl, Skit Nite Co-chair

Thanks to everyone who came out to Skit Nite on Thursday – it was sold out. Actually it was over sold. There were more people who came through the doors than there were tickets printed. Which brings me to my first faux pas. In the program, I forgot to thank Tania Djerrhian and Stephen Panunto for all their amazing work with the tickets and accreditation. Tania delivered tickets to firms all over town and students all over campus and Steve carried thousands and thousands of dollars cash around Thursday night. Everyone involved in Skit Nite this year was amazing.

It is true that the best and most successful leaders surround themselves with people smarter and more talented than they are. The hardest job of the night was TJ's and the high production quality of the show can be largely attributed to him; I can't thank him enough.

Thanks to my dear roommate, Lainy Destin, who bought me flowers twice this week, brought five non-law friends to the show and had a copy of Rolling Stone with the new Clark Kent on the cover waiting for me when I got home that night. Nice. The quality content of the show was largely due to the fantastic videos produced by Fred Fischer, who it turns out I think is a pretty awesome guy. (Don't worry he is probably as shocked at this as I am.) And I'm sorry that I didn't tell him the charities video was 13 minutes long until after it started.... well *sorry* in a kind of 'I did it on purpose strategic sort of way.'

It is definitely rare in an event like this when you come out making friends instead of losing them. Thank

you to Val Vena for dancing around in a tutu when we asked because you were so cute and you did an amazing job. Adam Barza has certainly cemented his stature as a law school celebrity with his amazing impressions of our esteemed professors, but in my mind the best part about Adam is that he was enthusiastic, easy going, open to direction and gener-

It is true that the best and most successful leaders surround themselves with people smarter and more talented than they are.

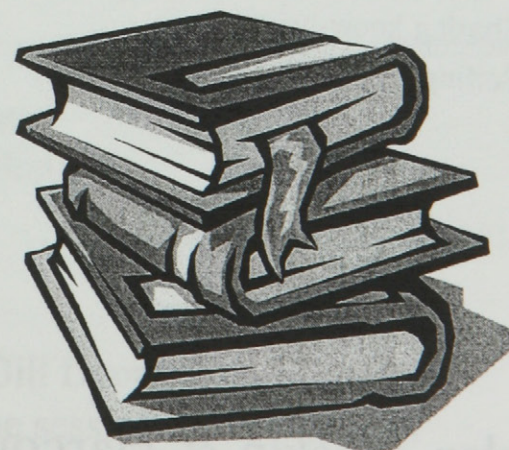
ally having a good time without being difficult or a prima donna in any way. It is rare in law school to find someone with that much talent who is not so insecure as to wear it on his sleeve.

House managers Karen Lajoie and Brigid Quinlan handled themselves amazingly when it was clear there were more people than seats. Thanks to those who came and to Professor Foster who couldn't come but gave us \$20 anyway. Also thanks to the professors who did make it out last night... I understand that this is yet another Skit Nite in your long careers, but you add so much to the show and we so appreciate you being there. This goes triple for Professor Sklar: each year you give so much to the show and this year was no exception. I was sitting with the director of Chez Doris when Professor Sklar hit the stage and she was ecstatic: you are one of the parts of Skit Nite she looks forward to each year.

Finally I am pleased to report

that the only fight that co-chair Jeff Feiner and I had was whether or not to stage a mock fight, and in what he probably thought was comic genius on his part but was really just pandering on mine, we did have our mock fight about whether or not to have a mock fight, which we thought was great but we were immediately and harshly reprimanded by Karen Lajoie for screaming when the doors had opened for the show. Nice. Skit Nite had an official photographer this year and in the weeks to come we will have prints of these photos available for sale... proceeds going to, wait for it, charity! There are people that said

some very nice things to me on Thursday night and I really appreciate it, especially Neil Hazan who left me one of the nicest phone messages ever. Although it is too soon to know how much money was raised and if the decisions we made this year were the right ones, everyone worked very hard and did their best and for that I thank them. Now, I'm going to begin attending class again; if someone could kindly remind me which classes I'm registered in I will get right on that.



Skit Nite's Technical Director's Final Word

by TJ Schmaltz, Law III

As the curtain closes on Skit Nite 2002 I thought it appropriate to say my final word about my last (and best) Skit Nite. The performance last night was sizzling! A plethora of talent, which included singing, dancing, acting, video and music, graced the stage. For those who were in the audience I am sure you could tell the effort that was put into each act by our intrepid performers, but what you may not realize is that this show basically came together less than 48 hours before it was performed. In fact, the first and only true dress rehearsal began at 15h00 the day of the SHOW and ended about two hours before we started the performance!

There is, however, another side to the show that cannot be forgotten – the people behind the scenes. I played just one part in the team that put Skit Nite together and I wanted to recognize those I have been working with for the last three months to make this show an amazing event! I am proud to have been part of this show and I have those who were “behind the curtain” with me to thank.

I wanted to publicly thank the Stage Manager Jessica Braun and all her stage crew for their hard work! Without someone to coordinate the backstage, confusion is inevitable. Jessica and her team worked well to keep actors calm, prepare the stage and be my eyes behind the scenes. To be honest, nothing I can do in the

booth can be done without a solid crew! Many thanks guys!

One must not forget the contribution that our live band made to the show either. This year they literally were behind the curtain! Kevin MacLeod and his band supported the performers throughout the night and provided the all-important filler between the more technical performances. I am still amazed that your band was able to learn new songs a day or two before the show and make it sound so good! Congrats to the band that kept toes tapping and the crowd energized!

Fred Fischer and Val Vena put a vision together as director and producer and worked so hard to make the show look as professional as I have ever seen it! Fred somehow

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found the time to film all 18 of the videos you watched during the show, demonstrating once again that he has many hidden talents...Val did more than her part by coordinating the performers, working over the rough spots and bringing out the creative juices from everyone who stepped on stage.

Finally, I cannot forget the

people who chaired this year's successful event - Jeff Feiner and Lawna Hurl. These two individuals have been working so hard to put together a show in a new venue with many unforeseen challenges. They were the ones who kept us all on track and deserve a round of applause for their efforts and a successful event.

So to conclude, I want to thank you all (and the rest of the Skit Nite team - from fundraising to house manager) for your patience, your efforts and your enthusiasm! I have waited three years to "call the show" and I am so glad I was given the opportunity to work with such a dynamic team and have such a successful performance!

Mi Cuento (My Story)

From the Fuego CD by Hanna Madbak

Many have asked me about the guitar piece I played on skit night. Since there wasn't enough room to include the full explanation in the skit night program here it is.

Tonight will be the first time I perform my latest original composition. It is one of ten songs on my first CD which will be released by the end of the year. The CD is entitled *Fuego* (fire in Spanish) and the music is best characterized as "Flamenco Fusion". The original plan was to sell the CD for the benefit of the charities at Skit Nite, but unfortunately the manufacturing is behind.

Flamenco is the music of the Gypsies of Andaluzia in the south of Spain. The most famous and commercial example of Flamenco is the music of the Gypsy Kings. Flamenco fusion is a fairly recent musical phenomenon involving mixing Flamenco with other music styles.

Flamenco fusion is a Flamenco purist's worst nightmare, but in my opinion it is the inevitable evolution of that art form.



There are a few dozen Flamenco styles that strictly follow different rhythmic rules allowing the musician to express a large spectrum of emotions. Mixing or combining these different styles is considered by Flamenco purists as completely unacceptable. *Mi Cuento* combines

three very different Flamenco styles (Bulerias, Soleares, and Rumba) mixed with western dance beats. Other songs on the CD mix different Flamenco rhythms with Indian and Arabic rhythms, Techno, Hip Hop, Samba and Dance beats.

You could say this is a transsystemic approach to music composition. Did I just say transsystemic? Oh, my God...law school seems to have caused irreparable damage.

Unfortunately, due to time constraints, I had to modify the performance to only include three of the five movements which are supposed to portrait different cycles of my life. For example the song has a very loud and powerful beginning (Bulerias rhythm) that is intended to sound like gun shots, a familiar sound to the ears of anyone growing up in Beirut.

I hope you enjoy it.

Jewish Law Students Association Presents:
**The Disputed Territories and the Resolution of
 the Israeli-Palestinian Conflict**
 in our Middle East Speaker series.

The presentation will be given by Prof Harold Waller of the McGill Department of Political Science and is sure to be thought-provoking and insightful. The session will be held on Wednesday March 20 at 12:30 PM in Room 101 NCDH.

In Students Do Not Trust?

by Hilary Stedwill, Law II

On Monday afternoon, I was late for class. As I entered the moot court, someone turned to me and said, "Hil, you missed the drama. Some students cheated on the mid-term and Swan is upset. He cancelled class." Professor Swan explained that he had learned some students had defeated the design of his mid-term. Specifically, they got more time on the exam than other students. Then, he stormed out of the room.

At first I thought this was a little melodramatic. So some students beat the system. Big deal. It wasn't as though they stole the answer key. Hell, they probably just procrastinated longer than usual. The advantage wasn't so great that I would get my nose out of joint over it. Frankly, there are more pressing matters, like transposing a song for Skit Nite, which I did with my extra couple hours (and everyone go to Skit Nite, OK?).

Now I'm pissed off:

Professor Swan designed an exam so that we could write when it was most convenient (somehow, I managed to make this the same time as my moot. I'm an idiot). Professor Swan extends us the courtesy of choosing when we write our exam and allows us to work with other students, and if that weren't enough, TRUSTS us not to cheat. Some students chose to wreck his novel idea.

You guys suck. I hope I don't know any of you personally and if I do, pray I never find out.

It's one thing to break rules that you think are unfair, or are cast so wide as to include you when no one is harmed by you breaking them in a particular instance (e.g. running a red light at 3 in the morning at a highway intersection in Saskatchewan). I'm not a saint. I'm not asserting that anyone should be.

However, cheating on Professor Swan's exam is heinous for two reasons:

1. You cheaters destroyed Professor Swan's faith in students and

diminished his expectations of people generally. In other words, you're mean.

2. You cheaters are compromising the reputation of those of us who are in this class with you, and all of us who go to school here. In other words, you're selfish.

I don't care if you're punished or whatever sanctions come about after this, if any. I just hope you feel bad about what you've done. I hope you learn to live with the people around you. I hope you get over whatever insecurity it is that urged you to destroy Professor Swan's creative design for a mid-term at the expense of others so that you could get ahead in whatever imaginary race you're running in your mind.

Most importantly, until you overcome all those hurdles, I hope you're never my lawyer.

Gold-Medal Delirium, or Actual Reconciliation?

by Marc Edmunds, Law III

If you were watching the post-game celebrations as closely as I was, you noticed that the streets of Montreal were just as blocked off with celebrants as those in downtown Toronto or Vancouver. There was no divisive issue of sovereignty clouding the picture – all you could see was red and white, maple-leaf pride. Oh Canada! You'd never believe it unless you know me, but this little desert-dwelling author of yours was

at least as excited for, and by, that game as most true-blue, err, -red Canadians. In fact, so much so that I want to dwell on the game itself for a second before I get into the point of this article.

Wayne Gretzky chosen to select the squad, Mario Lemieux as "Captain Canada" (as Ron McLean kept referring to him – boy was that a pretty sight, #66 draped in the flag – oh wait, more build-up first), and a loonie buried at centre-ice – we (and

I do mean we) were as good as gold, right? It was just a matter of the formalities of playing the games and rubber-stamping what everyone already knew – Canada is the greatest hockey nation on the planet – it's *our* game, damn you, so give us our freakin' medals back. Then a little country all decked out in *their* team colour of, wait for it, *gold*, stunned us in our tracks. Shaken, we as a nation figured all would be well with a blowout over humble Germany. 3-2

doesn't exactly qualify as a blowout in any sport. National paranoia and second-guessing began to sink in. The boys righted the ship though, at least partially, with that ugly (read: violent) draw with the Czech Republic, after which the Great One did his best Esposito-imitation, the old "it's us against the world" speech, and *it was on*. Finland, here we come, and 2-1 there we go, and woops, a blue-line floater, and there go the Swedes, too! Then the women beat their old nemesis in a true showing of us against the world – well, us against the US team *AND entire officiating crew* – but no matter, we overcame, and we had hockey gold medal #1. Halfway there. Belarus proved no obstacle, and at 7-1, the big guns roared... *never to be silenced again*. I tell you, them Yanks played a heck of a tough hockey game (who do I sound like, eh?!), but they ran into our boys playin' good, solid hockey. Wadda-wadda-wadda, and it really was a great game, with Canada's much-needed Advil-goals coming in the 3rd, courtesy of Iginla & Sakic. 5-2, the final, and the country **erupted** in pride. The country, literally, went nuts. It was even a recurring topic in the House of Commons, for crying out loud! Who takes a sport *so* seriously that the entire country comes grinding to a halt, and partisan politics get thrown out the window in an embrace of national sporting pride?

Well, I have an answer for you, and it brings me, finally, to the crux of this article. In 1995, South Africa was newly onto the international sports scene. After years of abolishment from the international arena, South Africa found itself thrust into the sporting spotlight as it was awarded the 1995 Rugby World Cup. After so many years of nothing but the odd renegade tour and local, provincial competition to maintain any semblance of competitiveness, the home side really wasn't supposed to do that well. New Zealand's All-Blacks, a perennial powerhouse in the sport (sound familiar, sports-fans?!) were hugely favoured, and

along with their land-down-under counterparts, the Ozzies, err, Aussies, were supposed to dominate handily, with Northern Hemisphere dark-horse England possibly mounting a challenge. South Africa was never supposed to be a walkover, especially on home-turf, but the competition *had to* belong to one of its Southern Hemisphere rivals. That was not the case though, and in an uncanny display of a politician knowing when, and *how*, to seize the moment, Madiba (known to all of you as Nelson Mandela, then South African president) donned a Springbok (South African antelope, & national rugby team nickname) jersey and started what became known as "the Madiba Shuffle". The significance of this moment needs to be explained –

So long live sport, & hockey-gold-medal-winning Canadians!

the Springbok jersey had long been seen as a symbol of *Apartheid* by black South Africans because it was a representation of the previously all-white sport of rugby (while most black South Africans were, and are, soccer-mad). For South Africa's first black president to don a Springbok jersey was nothing short of arms extended in a gesture of friendship.

To be honest, I can't quite remember any more whether he did that before, or after, the final, but whatever the case was, South Africa beat New Zealand in perhaps the most thrilling Rugby World Cup Final ever, 15-12 in extra time, if I remember correctly. Madiba, by presenting the trophy to the "homeboys", then extended those arms more literally, and white South Africa embraced him in their now outstretched arms as their new leader, and all of South Africa was united in an exhilarating Rainbow Nation (the catch-phrase at the time for a new, multi-cultural & multi-coloured country). Whites were hugging blacks, and blacks whites in an

unprecedented showing of national pride, unity, and reconciliation. Sound familiar?

Here's the point of my article: the euphoria that was the race relations in post World Cup South Africa proved to be somewhat of a façade – within months, old hostilities flared up, and within two years the country was racked by inner moral-turmoil as the TRC hearings revealed things about each side the other was horrified at. If you go to South Africa now, you won't see a party in the street, and you won't see random whites hugging blacks, nor vice versa. The honeymoon is over, and South Africa faces a long, hard journey back from 350 years of racial oppression, 45 of those institutionalized. That being said, most of you know me to be a die-hard optimist, and I still have a lot of optimism for South Africa; I believe that there is hope, that the seeds have been sown, and that we are on the right track, but it will not be easy.

How in the WORLD does that relate to loonies at centre-ice & Captain Canada & the Great One? Well, it comes back to the whole thing about the streets of Montreal being just as littered with people as the streets of Toronto & Vancouver. In a town where celebrating Canada Day is a hiccup en route to St Jean-de-Baptiste day, national pride was on full display, the maple-leaf shining proud and true. All tensions were forgotten, sovereignty was on the back burner, and unity was, so to speak, at centre-ice.

So am I pessimistically suggesting that this euphoric national pride will dissipate very shortly and old tensions again rear their ugly head? No, not really – I am, if truth be told, just marvelling at the wonder that is sport. I believe that in many ways, it masks real social problems, and that it sometimes unleashes an awful competitiveness and violence on society. But it can also have that other, raucous-celebration-of-life effect, the whole unity & happiness thing. So long live sport, & hockey-gold-medal-winning Canadians!

The Middle Beast

by Hala Rashed and Jeremy Waiser, Law III

There are two ways peace can come to the Middle East; the realistic and the miraculous. The realistic would involve divine intervention, the miraculous a voluntary agreement between the parties.

- Pope John Paul

Nobody asked us, but it's time to revisit the rather unpleasant debate featured in these pages several months ago on the subject of the Palestinian-Israeli conflict. In part because of the current escalation of violence in Israel/Palestinian territories, in part because some itches were never scratched, but mostly because the ugliness of the debate turned our stomachs, we're compelled to put pen to paper.

There were several Quid articles on the subject of September 11th in the weeks following those events, and then poof! Nothing. Since then, not a word's been spoken on what may be the single most significant day of history since World War II. That train of conversation has been permanently derailed. What happened?

In a 3-page article concerning 9/11, someone used the phrase "morally justified" with regard to continued U.S. support for Israel. That brought forth a geyser of outraged response from several students. Whoa Daddy, stand back. People took that phrase, teed it up, and took out their 1-wood. When the ink had dried, Israel had been reduced to a patently racist instigator of state terrorism.

Ready with sharpened pencils were the defenders of Israel—on your marks, get set, rant! By the end of their shopping list of grievances and excuses, the Palestinians had been found responsible for everything

from all violence in the Occupied Territories to the breakup of *Wham!*

Even more venomous debates were raging on lower campus, and at Concordia. 9/11 served only to embitter an already caustic back-and-forth between the SPHR (Solidarity for Palestinian Human Rights) and Hillel. At a time that demands constructive leadership, the two groups have offered little. It sometimes seems as though their only mission is to demonize one another in the public eye. In a recent issue of the *McGill Tribune*, there were no less than eight letters and articles criticizing one or the other of these groups, written mostly by members of the opposing organization.

Whoa Daddy, stand back.

More than once since we've been at McGill Law, the Latin motto engraved above the back entrance to NCDH, *Audi alteram partem*, has been invoked to encourage us to fulfill our role as law students. "Hear the other side." But let's be honest, what lawyer is trained to do that? The only reason a young attorney would ever be instructed to "Hear the other side" would be in order to determine how to "*Crush* the other side". So, really, *Audi alteram partem* is a curious motto to stamp on the side of an institution that pumps out lawyers. But it's a pretty good motto for human beings in general.

Few of the Quid authors from last term demonstrated a *bona fide* effort to discuss – that's right, actually *discuss* – the Palestinian-Israeli conflict. Their articles were deliberately one-sided expositions of

blame and finger-pointing. The history and current state of the conflict was repeatedly condensed into one central premise; it's them, not us. Agree or disagree with Edward Said, he's certainly right that "[t]he question of Palestine and, for that matter, the question of Israel constitute together one of the most colossal, unimaginably complex issues in all history: there are massive religious, political, cultural, and historical issues involved which no individual leader [alone] can possibly comprehend."

Ultimately, it is the reality as each side sees it that constitutes their own *truth*. How people see this conflict depends on where they sit. Out of a mass of argument and information, people will see what they want to see. Facts that confirm prior perceptions are picked out, and those that would cast doubt on their views are discarded. Few are willing to criticize their own side, or offer productive suggestions.

Maybe they're taking their cues from the leaders of the parties involved. Commenting on recent escalations of violence, Zalim Shoval, advisor to Israeli Prime Minister Ariel Sharon said this week: "[Palestinian leader, Chairman] Yasser Arafat, for his own political reasons and a mistaken strategy, has embarked on an increased wave of terror against Israel. He thinks it will eventually put Israel in a bad situation where there is international pressure on it." Saeb Erekat, senior Palestinian negotiator said: "[The upswing in violence] reflects the kind of person that Mr. Sharon is. And I really hope that Israelis and the international community will understand that the nature of this government is all about war and destruction."

Since the beginning of March

alone, 159 Palestinians and 52 Israelis have been killed (at time of submission), making it the bloodiest surge of violence in 17 months of escalating tit-for-tat mutual destruction. It is indeed a *cycle*; this week produced devastating Israeli incursions into Palestinian refugee camps; five separate terror attacks within Israel proper; the destruction of Arafat's headquarters in Ramallah; for the first time, Palestinians fired rockets from the Gaza Strip into southern Israel, and Israeli F-16s struck targets in the West Bank and Gaza.

Nearly as disturbing is the language now being used by the principals. Sharon: "We have to cause them heavy casualties and then they'll know they can't keep using terror and win political achievements." Fatah Leader and Member of Parliament, Marwan Barghouti: "I call upon all Palestinians to go out and attack Israeli soldiers at checkpoints."

With all this bloodshed, and peace – let alone a ceasefire – nowhere on the horizon, maybe it's natural for people to speak only of blame. Still, not so long ago, the world had hope of peace in the Middle East.

The most difficult and essential issues were left off the table during the Oslo peace process: Jerusalem, refugees, settlements, and borders. In the final year of the Clinton presidency, these were addressed in the all-out attempt to bring then Israeli Prime Minister Ehud Barak and Arafat to an agreement at Camp David. Talks broke down over the failure to agree on the future of Jerusalem and the fate of Palestinian refugees.

The Israeli leaders felt they had offered a generous deal to the Palestinians – as good as it was going to get. Palestinian negotiators rejected the proposal as inadequate.

Israeli officials accused Arafat of failing to respond to their proposal constructively, while Palestinian sources maintained that Israel had presented it as a take-it-or-leave-it package with no room for discussion.

One year ago, the two sides

The only reason a young attorney would ever be instructed to "Hear the other side" would be in order to determine how to "Crush the other side".

met again, this time in Taba, Egypt, and came even closer to an agreement. Achingly close, it would seem. Both sides admitted that compromises were made until debate centred on just a few feet of disputed soil sacred to both sides beneath the holiest sites in the Old City of Jerusalem. The talks collapsed.

Just how close were we ever to peace? And how good were the deals offered?

This much is true: Palestinians would have gotten some sovereignty over most of their holy places and neighbourhoods in the Old City; they would have garnered an independent state on about 96 percent of the land now occupied, with (a divided) Jerusalem as its capital; a small number of refugees would have been repatriated and some compensated; and there would have been at least a relative peace. Israel would have gotten defined borders and security within them. Normalization of relations with most Arab countries would presumably have followed.

However, the way many Palestinians see it, this deal was akin to the filling of a glass halfway by the hand that emptied the full glass in the first place.

The nature of the sovereignty offered to the Palestinians is open to question. Regarding Jerusalem, Barak reportedly proposed to give limited civilian autonomy over certain Arab districts to the north of the city and over Palestinian neighbourhoods and the Muslim and Christian quarters of the Old City. Arabs complained that the independent Palestinian state would have consisted of an archipelago of Palestinian villages in a sea of Israeli-held settlements, by-pass roads and other territories. Israel's settler community and its conservative supporters, however, have vowed to resist ceding the land. The settlements are also seen by many as

essential to Israeli security.

By officially recognizing the state of Israel in 1993, Arafat and his negotiators forfeited any future claims to 78% of historical Palestine. Regardless, many Palestinians do not see this as ancient history; it's land they believe is their birthright. The pressure this exerts on their leader is considerable.

As to refugees, 3.7 million such Palestinians now live in Jordan, Syria, Lebanon, the West Bank and Gaza. More than a million live in 59 U.N. operated refugee camps – 27 of them in the Occupied Territories. For Palestinians, the right of return is at the heart of national identity, and part of Israel's obligation to redress the wrongs it has done to their people. As far as Israel is concerned, the right of return is virtually non-negotiable. Israel would cease to continue as a Jewish state.

At least one of these major issues – territory – has been addressed in a new potential peace deal. It comes at a surprising time, from a surprising source.

It was after hearing about the failed Camp David and Taba talks from President Clinton that Crown Prince Abdullah of Saudi Arabia

hatched his idea for a Saudi led peace initiative between the parties. Essentially, the proposal offered full normalization of Arab relations with Israel in exchange for full withdrawal by Israel from all occupied territories in accordance with U.N. resolutions. That was until a recent meeting of Arab League foreign ministers, when Syria requested a change to offer only a "complete peace" in lieu of full normalization. The change is a significant watering-down of what was a very enticing offer of broad trade and political ties from Arab countries toward Israel.

The Saudi initiative has done wonders for the image of a country which, as *The Washington Post* observed, has come to represent in the minds of Americans post-9/11, "a sort of modern-day Mordor, homeland of evil, where Osama bin Laden and most of his hijackers were born and raised." A p.r. pitch this may be, but it still has people on all sides wanting to get on board.

Arafat immediately voiced his approval, and Israeli liberals were enthusiastic. But the current Israeli administration is a very different one from the Barak government. Sharon has failed to make good on his campaign promise of peace and

enviable. He is constrained by the need to please both the ultra-right and the centre-left factions of his coalition. If he ventures too far in either direction, he risks their departure. With Israelis feeling more and more hawkish with every suicide bombing, this might not be bad for Sharon's right-wing Likud Party. But, interestingly, it would likely be bad for Sharon. Former Likud Prime Minister Benjamin Netanyahu plans to challenge Sharon for the party leadership, and is supported by most of the party's central committee.

It's an unfortunate predicament: the party most willing to work toward a peace agreement, Labor, was ousted last year – and Sharon ushered in – because it could not secure peace, something the intifada helped assure. Now, things are much worse. The more violence back and forth between the two sides, the more its leaders are pushed into a corner. Palestinian attacks push Israelis to demand more severe reprisals. Israeli attacks push Palestinians to become more radicalized. A grim state of affairs, though perhaps through all of the bloodletting, there's hope the crescendo of violence could produce desperation enough to act as a "corrective shock".

We mustn't forget, though the Pope did, that there is a third way peace may come to the Middle East.

The U.S. may help

fashion it. Few significant steps forward have ever been taken without its assistance and urging, though many say the U.S. is too one-sided in its support for Israel to be a fair and effective sole mediator. In any case, wherefore art thou America?

The U.S. State Department has called on Arafat to stop terrorism and on Israel to show maximum restraint. Until this week, the Bush administration seemed intent on sticking to its plan of benign neglect toward the conflict, rebuffing Egyptian President Hosni Mubarak's recent appeal for heightened U.S.

involvement. The American position was that the Palestinians must first clamp down on militant activities. But in the face of the terrible escalations, President Bush has finally sent special Middle East envoy Anthony Zinni back to the region to bring the parties toward a truce.

If the Americans need further motivation, they find it in the form of Iraq. With Vice President Dick Cheney travelling through the region this week, he needs to be able to tell Arab leaders that America is on the case, before moving on to the thorny subject of getting Arab nations behind an effort to oust Saddam Hussein.

The Bush administration's reaction to the Saudi proposal has been lukewarm. The White House is reportedly feeling sensitive about its own lack of a peace initiative. Perhaps showing the administration's insecurity, spokesman Ari Fleischer suggested that Clinton's efforts had only made things worse: "In an attempt to shoot the moon and get nothing, more violence resulted." He later retracted his remarks and apologized.

Right now, the moon is just about the only thing not being shot at. Speaking in Montreal last month, President Clinton had this to say: "During the violence of the last seventeen months, 55% of the Palestinians who have been killed were under the age of 18, and 65% of Israelis who have been killed were under the age of 24. Children are dying because of the pride of their elders." If any deal is to be reached, finger-pointing and castigations must be the order of yesterday. Palestinians will at some point again be offered a tasty looking cookie. They'll have to decide if they want to take it or hold out for the whole jar, even if that means that many more of their young people will die in the streets. As for the Israelis and their continued occupation, it may be time to question Golda Meir's old tenet that "Any act of terror taken against Israel will be returned ten-fold." In Israel today, it's not a game you win.

In any case, wherefore art thou America?

security, and the mounting Israeli death toll is increasing pressure from the public and his own coalition government to take even harsher military action. "The Israeli right-wing would not allow him to go beyond asking questions about the [Saudi] initiative," says Likud member Yossi Olmert.

This month's upcoming Arab summit may endorse the Saudi plan. If this happens, the Labor Party in Sharon's coalition may no longer accept his claim that no viable peace plan exists. Sharon's position, whatever your likes or dislikes, is not

Darth Vader Speaks Out

by Jay Turner, Nat IV



Given as most of you are, no doubt, reading this in class, hopefully it won't be a *complete* waste of your time.

Sorry about the title: it's a bait-and-switch. A classmate once called me a "walking human rights violation", and that's about the only claim I have to Vader's name. This is actually a response to Mr. Bustos' rant about taxes. So if you'd rather listen to your prof.'s lecture, stop reading now.

He wants to pay less. He does not like seeing tax dollars spent on political pork-barreling. He *really* does not like seeing tax dollars handed out to people that promote politics that he disagrees with. I *think* we get it. Because taxation, you see, is a violent act. It's basically robbery. No doubt I'm slighting the elegant force of Mr. Bustos' arguments, but that's basically it, right?

So, where to start?

How about with 'how taxes used to be collected' vs. 'how they are collected, *now*'. Mr. Bustos *correctly* points out that tax collecting used to look a lot like state-sponsored, random extortion, with the extortionist 'skimming off the top' of what was collected. The people that paid them rarely saw any benefit. Obviously, to a certain degree at least, that's no longer true. But Mr. Bustos wants to insist it's *still* true that "for every cent that is taxed, violence, or the threat of violence, is used."

Well, I'll open with the cheap shots: feel free to name *one single person* incarcerated *anywhere* in Canada for non-payment of taxes. Yes, yes, black-letter law says that you *can* be jailed for tax evasion. It also says that you can be jailed for claiming to be a witch, or telling fortunes for cash, unless, of course,

you really *do* have magical powers [for curious readers, that's *Criminal Code* s. 365]. I'm getting a *posse* together—we're gonna take down JoJo's Psychic Network. We'll have proof of *mens rea* just by catching them, right?

Ok, so what CCR (Canada Customs & Revenue) really does is take away *more* of your money if you don't pay what they say you should. That's *still* 'robbery', right? In the sense that the government is taking from you something by threatening violence, even if they never *do* any violence. I'm beginning to wonder just where Mr. Bustos *was* while the rest of us were sitting through Property and Contracts (or whatever it was called when you took it). Property rights don't just magically spring into existence, like some Ancient Greek God out of Zeus' ear. *You've* only got a *right* to it because the state *says* you do—meaning that nasty ol' threat-o'-violence is the basic reason why you *own* anything at all to start with. The same thing goes for cash, bank accounts, land and *owned* stuff-in-general.

Of course, in fairness, there's no moral obligation on anyone to feel grateful to anyone for giving them something that they *didn't ask for*. Just ask anyone that's ever been given a pet they didn't want. The same goes for protection—just ask anyone who's had a friend get charged with assault as a result of a fistfight they had with him. Mr. Bustos might well *prefer* a state of affairs in which the best armed among us do whatever they feel like. And there's no way he should feel any moral obligation to pony up taxes, because, for example, of all of the state-funded health care and education that he's received over the years. Why should anyone *else* get that free handout? He *definitely*

shouldn't feel morally obligated to pay taxes for *anything* as wasteful as maintaining that court system that his (state-subsidized) law degree lets him charge the public to use. Believe it or not, I'm being serious.

The above is all quite unfair to Mr. Bustos. I'm forgetting that random grab-bag of 'programs' for which taxes are "necessary"—at last count, it was schools, roads, and soldiers. I'm sure Mr. Bustos would want to insist that judges, law professors and bailiffs should be added to the list. Oh yeah, and toss the all those public registry workers in there too (Property, Patent, Trademark, Copyright, the various 'security-on-property' registries, etc.) Based on what point in the 19th century, exactly, is the list of 'necessary' and 'unnecessary' programs to be established? 1898? We definitely want to go back before the introduction of income tax, right? But let's just assume Moses, Buddha, Locke or Lord Denning can tell us what's "necessary" and what is not. I don't use a car. So I'm paying more than 'my fair share' for road-building, right? Even with the list chosen, the issue just shifts to how much to spend on each item on it.

Kidding aside, here's the point: *almost everyone* hates *part* of the *Income Tax Act*. You name a government 'program' and *someone* hates it. Just ask anyone that's been involved in divorce litigation how they feel about funding legal education and the court system.

Obviously, this is because the whole deal is about taking from Pablo to give to Pauline. Mr. Bustos is perfectly right: "government is a tool to manage a specifically defined set of activities." The devil, naturally, is in the definition. Pablo wants it out, Pauline wants it in. How to decide?

Mr. Bustos would rather have the person that picks the Pablos and Paulines be him—at least for the money *he's* managed to round up thus far. He's even so generous as to extend the same rule to everybody else. Let the market, and personal whim, distribute every benefit that it can.

Well, there's nothing '*magical*' about free-market distribution. The market exists because the state, such as it is, enforces deals. To insist that "taxation = evil" is to assume that there *is* something 'magical' (here, a moral quality) to market distribution. Well, the market does a good job of distributing some benefits, and an appalling job of distributing others. Some stuff is cheaper if you buy it wholesale. I don't see a mad rush to market distribution of health care. I wonder why.

In fairness to Mr. Bustos, the government does not decide to distribute benefits, and levy taxes, because it has dispassionately assessed that the market is not the best method of distributing benefits in that area. Mr. Bustos' objection, I take it, is that it's the Federal Liberal Party primaries who pick the person who'll ultimately get to choose the Pablos and Paulines. (That is, unless you think the *Canadian Alliance* has a chance of winning the next election.) Yes, from the perspective of most people, paying for some of the benefits the government picks s*cks a**. Mostly, any government hands benefits out because a particular distribution increases their chances of getting re-elected. If Mr. Bustos wants to lose less funds to the National Action Committee for the Status of Women, he's gotta have a bigger impact on the current government's chances of getting re-elected. If the current government thought funding NACSW *lost* them votes, the gravy train would dump NACSW faster than the corps are dumping Arthur Andersen.

This suggests the second point—"governments and politicians are corrupt". At first blush, this is a

pretty facile generalization. *So what?* It's the *relative* amount of pork doled out that matters. Travel the world a bit. Open a can of one of our national dishes—up here, you're looking at about as much pork, relatively speaking, as you find in a can of pork-n'-beans. South of the border, we're talkin' *X-Mas ham*. Pick any one of several Latin American countries, and we're havin' a roast hog with an apple in its mouth. Everyone hates our system, until they've tried the ones they hate more.

Suppose Mr. Bustos just wants lower *rates*. If you're arguing that the tax rate should be *lower*, and everything else in the *Income Tax Act* left as-is, what you're arguing *for* is a distribution of a 'the more you *have*, the more you *get*' benefit. Even with a flat tax (which we don't have), 5% of a thousand dollars is more than 5% of five hundred dollars. That benefit gets paid for by those who are now receiving the public programs that get cut to pay for it. (Unless, of course, Mr. Bustos has discovered how to print money without causing inflation.)

Mr. Bustos *is* right about one thing, though. Yup, our system of taxation is a mess. You can guess that just by weighing a copy of the *Income Tax Act*. Not only is it complex, it's *too* complex for anyone but specialist tax lawyers to understand. Even they only claim to understand *parts* of it. It's a rat's nest of a statute, pigeonholed with thousands of loopholes and a million-odd accreted rules. Its complexity is an indirect subsidy to bright tax lawyers, at the expense of the public at large. If you're bright enough to save someone a dollar, they'll cheerfully pay you fifty cents. Reform of it is long overdue.

Soooo...since I've done nothing but unfair sniping, I'll put up something for others to shoot down. A few suggestions:

1. Why do we collect and process tax returns from people whose sole source of income is public assistance? Why not pay bureaucrats to do something more

useful with their time?

2. Why do Canadian citizens *resident* somewhere else escape taxation by our government? They received benefits before they left, and they'll receive them again if they come back. They're getting that overseas job because of training they got here. Why should they be able to go somewhere else, get paid more, and not pay taxes on what they make? The *American* government doesn't allow that. If they're resident here, *or* they're citizens and resident somewhere else, they should pay. If they don't want to, let them give up citizenship.

3. Why should we tax a dollar differently if it comes from a business or property, as opposed to employment? If there's a defensible reason for this, it escapes me. A dollar made should be taxed as such, no matter how you made it. Same thing goes for windfalls, like inheritance and lottery winnings...*and* capital gains, for you tax wonks.

4. Why on earth should we subsidize things Parliament feels are socially desirable with tax deductions? This makes no sense. Using tax deductions is not producing any savings on leaner bureaucracy. If we want more of it, fund it directly. At least you know how much it costs to fund it, and it's publicly accountable. If I'm getting free bacon, you probably want to know. Right now, the deductions I claim are kept *secret* from you.

5. Progressive taxation is a noble experiment that is not working. For you non-tax wonks, progressive taxation is taking an ever-increasing proportion of someone's income, as they make more (so 10% on the first \$100, 20% on the 2nd). Why? It builds in a systemic incentive to manipulate tax rules so as to lower your apparent income for the purposes of taxation. So tax lawyers gain, at the expense of the public. It also encourages our high-income earners to Go South. We pay to train them, then we lose when the taxes drive them away.

Our Man in Amsterdam

Barcelona beautiful to trip Boys' (a backwards tale)

by Jeremy Waiser, Law III

Home sweet home. Surprisingly, Amsterdam offers a sunny return. My flight is a blur. I say goodbye to Jeff and Ladislav and bid adios to the Hostel Campi. Jeff and Ladislav pledge to come visit me in the Pays-Bas. Jeff apologizes. Jeff hits me in the leg. I pour a bottle of water on Jeff. Jeff is still sleeping. Ladislav wakes up. Four hours later, I wake up. We go to sleep. I tell Jeff to make sure that I'm awake for my flight. We all say goodbye to Kevin, Nick and Mark who are leaving within hours. They tell us their story of being in the castle-nightclub on top of the Poble Espanol, pointing out what suckers we are for missing the best night of the week. We get woken up at a little after 7 by Jeff and Ladislav. We smell ethanol. Mark, Kevin and Nick finish packing. With Jeff and Ladislav still dancing and swearing at each other in French, the rest of us return to the hostel to crash around 3. How the hell did three years go by so fast? Our last night in Barcelona is a mix of eating, drinking, dancing, and reminiscing.

It's a soft and modest moment in an otherwise mad week. They arrive with the good news, and we amble out single file into the night while the piano man plays Debussy's "Clair de lune". We've been waiting for the two of them in the lobby of a hotel where a piano player is stroking a Steinway. Nick's online resourcefulness saves the day, and Kev has himself a Virgin Atlantic ticket for cheaper than the train would've cost. Unfortunately, the train is full and Kev is screwed. We hop the metro to the station to see him off. Kevin is due to depart for Paris that night by train. Having had his fill of the boys and their antics, Jerrod leaves a day

early, hopping an easyJet flight home.

The gallery erupts. Instead, with five euros on the line, I stroke an exquisite, off the left-leaning slope, over the pebble-bridge, and under the dragon's mouth hole-in-one. In an epic contest, which comes down to the 18th hole, Nick needs a birdie to win. The emotional climax of the trip comes Friday night when, foregoing the revelry offered by the bar complex by the sea known as MareMagnum, Kev, Nick, and myself opt for the adjacent outdoor mini-put course.

"Yo soy only un Americano stupido! Muy sorry! Muy sorry!!" A fight ensues, wherein both Mark and Ladislav are slapped across the face in humiliating fashion, and Jeff escapes with his life only after fleeing from four huge men on foot and then, once cornered, begging not to be beaten. Jeff and Ladislav (a former McGill exchange student from Paris who dropped in for the week) bud the massive line successfully, but the bouncer holds Mark back. While myself, Kev, Nick and Jerrod are enjoying ourselves inside, the other guys aren't so lucky. Picture 700 sweaty Spanish techno-lovers downing Vodka-RedBulls until 7 in the morning. For sure the craziest place we go to during our stay is La Paloma.

Moments earlier, Nick stubs out his cigarette on the tree. Julio pauses outside the Church of Santa Maria del Pino (Saint Mary of the Pine Tree), named for the 800-year-old tree outside the church. Thursday night is pub-crawl night, and a witty local, Julio, treats us to a walking tour of bars in the old city.

Picasso, who spent part of his youth in Barcelona, once said it took him 50 years to learn how to paint like a child. The Picasso Museum is a

wonder as well. The man never used a right angle. Suffice it to say it's like nothing you've ever seen, as with all Gaudi's work. Trying to do it justice here would be fruitless. Barcelona's most famous son, Antoni Gaudi has left his mark all over town, no more so than with the Sagrada Familia, his gothic, Arab-influenced cathedral masterpiece. By Thursday, our third day in the city, I'm a new man, and more than well enough for some culture, Catalan-style.

Upon request for bananas and water, Jeff replies, "Awww, poor Jeremy, he's incontinent. Waaa, waaa!" Both Jerrod and myself, suffering from a nasty case of food poisoning, spend the next day entirely in bed.

Though nothing can be proven, witnesses report seeing an unidentified person whose name rhymes with Weremy Jaiser vomiting off the fourth floor balcony of his room. Stomach upset outweighs pride, and I venture off for Hostel Campi. "Awwwww, wassamatter, boyyyyy?" Mark expresses, "You got a tummy ache?" At around 4am I inform the guys that I'm not feeling so hot and desire to leave.

At this point, I can't help but notice that Jerrod seems to have disengaged from the fun. For example, Nick asks of Kevin, "Would you rather eat a plateful of leftover tapas that has been in a dumpster for a week, or be hit in the head by Lennox Lewis?" Popularized by Jeff at Law Games, the "Would You Rather" game works something like this: someone offers you two hypothetical and wholly unappealing options, from which you must choose. Juveniles taunting, inappropriate jokes, and the infamous "Would You Rather" game are on display. Through the rest of dinner and our

adjournment to the legendary bar "La Oveda Negra" (The Black Sheep), the level of silliness rises steadily.

Pass the prawns! Suggestion noted, Mark. Mark issues a foreboding warning: "Watch out for the Sangria – all that sugar mixed with booze and greasy food isn't easy to handle." You get a tiny plate with your choice of *dee*-licious Catalan delights; we gorge on prawns, calamari, patatas smothered in creamy garlic sauce, little red sausages drowning in deep bowls of oil... We all have tapas, in fact. Just in case you're wondering, "tapas" is Spanish for "small portions." So tapas I have. Dying! I've been dying for tapas since my last time in the city. On Kev and Nick's recommendation, we dine at El Café Opera, where they'd eaten the night before. By 10pm, we are united with Mark (Rusko; Maastricht) and Jeff (Kurzon; Aix-en-Provence).

"Hey dude."

"Hey Manny."

"Guess whose ass I was sniffing last night."

"Whose?!"

"Mireya."

"The poodle? You dirty dog! She is one spicy churro!"

"Tell me about it. We got it *on*."

"Nooo! Doggie-style?"

"Claro."

"*Eres la leche!* High-four!"

We overhear the following conversation between Javier, a bulldog, and Manuel, a Jack Russell Terrier. Spring fever has clearly hit the dogs of Barcelona, who are everywhere around the park. Next stop is the Parque de la Ciudadela, which houses one of the world's most impressive fountains, a zoo, and a slew of stoners.

I can understand his reservations. If it was ever leaked, any hopes he has for politics, let alone a relationship with a woman, would swiftly bid Nick adieu. But I've promised not to. Dying! Nick tells us a story involving bodily functions and a loss of physical control that I'm dying to recount. We walk the boardwalk by the sea to the Olympic Village, which is in no way a village, and no longer has anything to do with the Olympics. Men playing "Can you guess which hat the ball is under" are ripping off tourists. It's a bustling crunch of shops, street vendors, buskers, and parrots in cages. We stroll Las Ramblas, the main strip, to get to the beach. We meet up with Kevin (Macleod, who's come all the way from Montreal) and Nick

(Varzeliotis, on exchange in Copenhagen, in case you'd forgotten), who arrived the day before from London, and head off to explore the city.

Looks pretty good: three beds to a room, separate bathroom, and a balcony overlooking the lovely courtyard four stories below where a pretty flowerbed lies directly under our perch. We check it out. We grab the shuttle into the city, disembark, and are immediately accosted by an elderly man with an offer to stay at the "Hostel Campi". By noon, we're walking out of the Barcelona airport to a faceful of sunshine.

"Don't worry about it Jer. I can get along with anybody." I try to convey to him my concerns about the boys and the silliness that can ensue when they get together. I meet my friend Jerrod, who's on exchange here from Berkeley, at the train station for the ride to the airport.

Should be a blast. A week of fun and Catalan culture with the boys on exchange. The only thing getting me up at this ungodly hour is my excitement about a plane trip to beautiful Barcelona. I ride my bike through the early morning suicide watch of a grey downpour. Shower and shave. Fudge. Alarm goes off.

Tutorial Leaders / Auxiliaires d'enseignement

par prof. Geneviève Saumier

The Faculty is looking for students to act as Tutorial Leaders in the following courses:

Legal Methodology Teaching-Group (1st year) (4 credits)

Fifteen upper year students are required to teach in the Legal Methodology Teaching Group (first-year). These tutorial leaders are responsible for a significant portion of the instructional component of the *Introductory Legal Research* course. It is expected that 4 students will

work as a team and be primarily responsible for instruction on research methods, including the setting of specific research assignments, to all groups of first-year students. The remaining 11 tutors will each be assigned to a group of first-year students and be primarily responsible for the written and oral components of the course. All tutors will meet with first-year students on a regular basis. Tutors will also meet weekly with the Instructors.

In addition to the teaching component of the course, all tutorial leaders are also responsible for

assisting first-year students in adapting to their studies in the Faculty of Law. Their responsibilities therefore include encouraging the creation of a supportive environment as well as detecting and addressing emotional or academic difficulties in adapting to law school.

Prerequisites: At least four full-time terms in the Faculty (preference will be given to students in third year), academic achievement in the Faculty of Law, fluency in English and French, leadership qualities, strong interpersonal skills, demonstrated ability in legal research and

writing, and teaching experience. Selection is based on applicants' resume, transcript and an interview. Students may indicate in their application whether they would prefer to teach an English section, a French section or a bilingual section.

The course will be under the direct supervision of the instructor for the teaching-group course (t.b.a.) and Prof. Geneviève Saumier, the instructor for the Introductory Legal Research course.

Legal Methodology Teaching Group (2nd year) (4 credits)

Eight upper year students are required for the Legal Methodology Teaching Group (Second Year). These students are responsible for a significant portion of the instructional component of the *Legal Writing, Mooting, and Advanced Legal Research* course. The tutors will meet

with their group of second-year students on a regular basis. They will also meet weekly with the course instructor. All second-year groups are taught in both English and French.

Prerequisites: At least four full-time terms in the Faculty (preference will be given to third year students), fluency in English and French, academic achievement in the Faculty of Law, interpersonal and organisational skills, demonstrated ability in legal research and writing, and teaching experience. Selection is based on applicants' resume, transcript and an interview.

The course will be under the direct supervision of the instructor for the teaching-group course (t.b.a.) and Prof. Geneviève Saumier, the instructor for the Legal Writing, Mooting, and Advanced Legal Research course.

Please remit your application to the office of the Associate Dean Academic (Prof. René Provost). You should include: (i) a cover letter specifying the programme to which you are applying and the reasons motivating your application, and (ii) a *curriculum vitae*, including the names of referees if possible. You do not need to include a transcript. **The deadline for applications is Monday March 25th.** Interviews will take place on March 26th-28th (please indicate, in your cover letter, when you are available during that period).

For further information please contact Daniel Boyer (current course instructor) or Prof. Geneviève Saumier. You may also obtain information on the courses from Cara Cameron (Legal Methodology Coordinator) at 398-6894.

Resume and Interview Tip.

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John W. Durnford Award for Teaching Excellence

It's that time of year again! Yes, it is time to tell me what profs you have loved. Please follow the instructions below to complete your nomination form, and submit the completed nomination form in the Marta Juzwiak, VP Academic mailbox at the LSA Office.

NOMINATION FORM FOR 2001-2002 JOHN W. DURNFORD AWARD FOR TEACHING EXCELLENCE

Nomination Procedure

1. There are two nomination periods, and the second is upon us. Professors teaching full year courses and courses offered in the winter term may be nominated during this second nomination period starting March 19, 2002 and ending March 27, 2002.
2. Les formulaires de mise en candidature dûment remplis doivent être retournés au casier du V.P. Académique au bureau du L.S.A.
3. Any student of the faculty can nominate a professor.
4. Seuls les étudiants présentement inscrits au cours enseigné par le professeur en question peuvent soumettre la candidature de ce professeur.
5. Only university appointed professors of the Faculty of Law are eligible for that award, meaning that any professor who lectures at the Faculty of Law of McGill University and who holds a University Appointment at McGill University may be nominated.
6. Le formulaire de mise en candidature dûment rempli doit être accompagné d'un court texte mettant en valeur les qualités du professeur lui méritant, selon l'étudiant, le prix de cette année.
7. In nominating a professor, nominators may want to provide information, among other things, on the professor's enthusiasm, clarity of presentation, mastery of subject matter, availability outside of lectures, and ability to stimulate interesting class discussions.
8. En soumettant la candidature vous pouvez inclure toute autre information qui vous semble pertinente et qui pourrait éclairer le comité dans son processus de sélection (par exemple, le plan de cours).
9. Nomination sheets must be signed by the nominator and five other students in the course for which the professor is being nominated.

Nominator's Name: _____

Nominator's Year: _____

Professor nominated: _____

Course (only one please) _____

NAME	YEAR	SIGNATURE
1.		
2.		
3.		
4.		
5.		

Check out the New and Improved Pubdocs!

Your Pubdocs Librarian would like to welcome all the returning and prospective Pubdocs' users to the new, revamped Pubdocs Online.

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In short:

- more than 4000 files;
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Where: <http://www.law.mcgill.ca/pubdocs/index.htm>

username: pubdocs

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Did you know? Pubdocs has also a collection of materials submitted by Professors. Check the "Professors' directories" link!

For the safety-oriented there is a "Virus Information" page (Note: there are no guarantees etc. of any kind, however). For the generous, there is a "How to Submit" page. For the unsure whether to submit, there is a "Contest" page. For any comments, there is now a new "Contact" page.

Of course, the website would not be there without our mostly appreciated Generous Students.

Have fun browsing,

Witold

Offre d'emploi: Coordonateur(trice) - Concours Rousseau 2002

La finale internationale du Concours Rousseau 2002 aura lieu à la Faculté de droit de McGill du 4 au 11 mai prochain. Le comité organisateur du Concours 2002, composé de Véronique Bélanger et René Provost, recherche un(e) étudiant(e) pour coordonner les différentes activités reliées à la finale.

La personne choisie devra être en mesure de travailler en français, tant à l'oral qu'à l'écrit. Elle devra être disponible à partir de maintenant, à raison de 10 heures par semaine jusqu'à la fin avril, et à temps plein entre le 1er et le 12 mai 2002. Salaire selon le barème de la faculté.

Les personnes intéressées sont invitées à déposer une lettre de motivation et un c.v. dans la boîte à lettre de Véronique Bélanger (OCDH) au plus tard **le vendredi 22 mars.**

To all Future Competitive Mooters!

Ever wanted to do a competitive moot? This is your chance!

The faculty chooses its pleaders from students who submit their application and do a short audition (8 minutes) before a professor. The audition is based on a factum that you are provided and may be done in either English or French.

The schedule is as follows:

- The APPLICATION FORM will be available by 10am, Monday, March 18th, at the OUS.

The sign up sheets for the auditions, which will be held March 26th, 27th and 28th will be posted at the same time in the pit next to the basement computer lab.

- There will be an INFORMATION MEETING Wednesday, March 20th, in room 200 NCDH 12:30 - 13:30. (What are the different moots about, how much work is involved, how should I prepare for the audition etc.)

- The DEADLINE for submitting applications and for signing up for an audition will be March 22nd, again at the OUS.

- The AUDITIONS will take place during the days of March 26th, 27th and 28th.

- Students will hear whether they have been chosen during the summer.

Any questions should be addressed to Cara Cameron, Legal Methodology Coordinator at 398-6894 or legal.methodology@mcgill.ca.

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PUTTING IT TOGETHER: ETHICS, DUTY & THE PRACTICE OF LAW

AN INTERACTIVE WORKSHOP
EXAMINING THE RESPONSIBILITIES &
ISSUES FACING EVERY PRACTICING LAWYER

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FAMILY LAW

WILLIAM HESLER
CIVIL LITIGATION

WED. MARCH 20
12:30 - 4:30 PM
MOOT COURT

ΦΔΦ

Phi Delta Phi

The International Legal Fraternity

Putting it Together: Ethics, Duty and the Practice of Law

by Karen Lajoie, Nat. IV / Magister, Laurier Inn - Phi Delta Phi

Ethics, duty and professional responsibility are crucial elements of any lawyer's career, whether they are in private practice, working for the government or an NGO, or doing more scholarly work in academe. This Wednesday, March 20th, four prominent members of Montreal's legal community will spend the afternoon leading an interactive workshop examining the ethical implications of eight practical scenarios (see below). They have expertise in corporate, criminal, and family law, and while their practices are different, their interest in maintaining high professional standards in legal practice is exemplary.

Having a solid ethical foundation for the practice of law is important no matter where you end up after graduation. It is also an area that is little-emphasized in coursework at the Faculty. Last year, a group of us resurrected the Laurier Inn of Phi Delta Phi, the world's oldest legal ethics fraternity, because we felt more emphasis should be placed at McGill on this vital component of the law. It is our hope that the ethics workshop becomes an annual spring event at the Faculty, but its ongoing success will depend on student turnout and support. During the inaugural workshop last year, 200 students filled the Moot Court, eager to analyse and discuss the hypotheticals presented by the panel. We encourage everyone to make the time, despite the advanced stage of the semester, to attend at least part of an afternoon that will change your perspective on your future.

The panel will discuss the following scenarios:

SCENARIO #1 – civil law, corporate

You and your partners have had a long-standing relationship with Acme Manufacturing, which is a publicly traded company. As outside counsel, your instructions are, as a matter of company policy, supposed to come from in-house counsel. However, for the last four or five years you have developed a close working relationship with the President and CEO, Mr. Mobile. When you are asked to give a presentation to the Board, it is usually at the invitation of Mr. Mobile. In practice, Mr. Mobile is the one you report to, although you keep in-house counsel informed.

One of your partners frequently does work for a competitor of Acme, a company known as Beta Manufacturing. You had drinks and dinner at your partner's house on Saturday night. Your partner has learned Mr. Mobile has worked out a deal with Beta, and tells you "off-the-record" that Mr. Mobile has not told anyone about his plans to jump ship, but he plans to leave Acme high and dry at the end of the coming week.

The timing could not be worse for Acme, since the company is involved in some very important discussions for a strategic alliance with its key supplier, Raw Material Corp. Mr. Mobile has been conducting the negotiation with Raw Material Corp. practically on his own, with your input on the legal issues and the drafting of the contract. On Monday, you were scheduled to send the final draft of the agreement to Raw Material's lawyer for signature. You quickly realize that when Mr. Mobile moves to Beta, the deal worked out with Raw Material Corp. will likely follow him.

On Monday morning, Mr. Mobile calls to instruct you to put everything on hold regarding the signature of the contract with Raw Material Corp. You find yourself in a real moral bind. You know that if you hold back on the Raw Material contract, Acme will likely lose the deal to Beta.

1 – Can you betray your partner's confidence and confront Mr. Mobile with what you were told "off-the-record"?

2- If you let on that you know what he is up to, Mr. Mobile will probably tell you that what you have been told is privileged and confidential, and that your firm is bound not to make any disclosure to Acme. If you are told to remain silent, is that the end of it?

3 – In any event, what are you going to do about the draft agreement? You have firm instructions from Mr. Mobile not to send the draft to Raw Material's lawyer. If you don't, the deal may fall through the cracks in a day or two. If you do, you will be disobeying clear instructions from Mr. Mobile. What do you do?

SCENARIO #2 – civil law, corporate

You are the partner responsible for Zeta Bank Corp. The firm is handling many files for this long-standing client. One of them is a piece of litigation relating to a letter of credit dispute. About a year ago, you referred the file to a bright young associate, Arnold Terminator. Arnold has a lot of promise as a litigator and future partner. When you assigned him to the file, you told him to do everything possible to please this important client. The bank's senior vice-president for legal affairs has asked to see you about the file. She

wants to see you alone.

The bank's VP relates the following. Since the institution of the action against the bank, Arnold has made four interlocutory motions, all of which have been unsuccessful, except for a motion for particulars, which was successful in part. Arnold appealed the clerk's decision on the motion for particulars and lost. He made a motion to have the action dismissed, which he lost, and then tried to get leave to appeal to the Court of appeal. He subpoenaed the Plaintiff's President for examination on discovery on Monday, December 23rd, and refused to postpone the examination when the Plaintiff's attorney said she had planned to be in Florida with her family that week. During the examination, he badgered the witness, and when the other attorney intervened, Arnold told her she did not know the rules of procedure and referred to her as "Miss" and "My Dear". The bank's VP attended the hearing of one of the interlocutory motions and was distressed that the judge seemed to be paying a lot more attention to the other lawyer than to Arnold. The hearing had been postponed from an earlier date on which Arnold had insisted on proceeding, notwithstanding the fact that the other lawyer was in another courtroom and had sent a stagiare to hold the fort in the meantime. The action is for \$80,000, and to date Arnold has racked up time of \$18,000 before even filing a defence. Of this amount, \$8,000 is for research time relating to the interlocutory appeal attempts.

The bank's VP states further that, at the beginning of the file, she asked Arnold if the case could be settled, to which he replied that there was no point in exploring settlement until the Plaintiff and their lawyer had been run through the mill so they could have a taste of what would happen if the case went to trial. Subsequently, someone at the bank has heard that the Plaintiff's President was so infuriated by the way he was treated during his examination

on discovery that he has told members of his trade association not to deal with the bank.

1 - What are you going to tell the bank's VP?

2 - What are you going to say to Arnold?

SCENARIO #3 – civil law, insurance

You have received a letter from the Secretary-Treasurer of Fiduciary Trust Company, asking you to provide a response to their auditor's request to report on claims and possible claims. The enquiry letter lists all of the claims against Fiduciary of which you and members of your firm are aware. However, it does not mention a possible claim. You learned of the possible claim a week ago, and were asked to keep the matter strictly confidential. It appears that one of the senior trust officers at Fiduciary has absconded with over 100 million dollars worth of negotiable securities belonging to an estate administered by the company. To make matters worse, the insurance coverage for employee fraud has been allowed to lapse. If the employee is not caught and the securities recovered, the estate will eventually learn of the defalcation and sue. A suit of that magnitude would severely damage the company's image and drive down the value of its shares. Other clients might withdraw their business and the company could be threatened with insolvency.

Private investigators have been retained to track down the villain and there is a chance he might be caught before it is too late to recover the securities. If they are successful, no one may learn about what happened and it will be business as usual.

1 – In the response to the audit inquiry, a copy of which is sent to the auditors, can you remain silent about the possible claim?

2 – Should you refuse the client's request to provide a response letter?

3 – What advice should you give the client regarding disclosure of the incident to the shareholders at the

upcoming annual meeting?

SCENARIO #4 – family law

Tina and Tony were married in 1992 and signed a marriage contract adopting the regime of separation as to property. At the time of the marriage, Tony was a wealthy individual having a net worth of approximately \$5 million, with a thriving business. Tina did not have any material assets and had always worked to support herself and her son from a previous marriage, never having earned more than \$20,000 a year.

At the beginning of the marriage, the lifestyle of the parties was sumptuous and no expense was spared for clothing, meals, jewelry and travel. Unfortunately, Tony's business, as well as the marriage, unraveled. Tony sued for divorce in 1998, and Tina countered, requesting a lump sum of \$2 million and alleging not only that she had lived a wonderful lifestyle, but, notwithstanding Tony's recent plea that business was terrible, Tony had substantial hidden assets offshore.

Tony was deposed by Tina's lawyer and was asked whether he had any assets of any nature whatsoever and particularly a bank account, offshore. Tony vigorously denied same and stated unequivocally that he had no money whatsoever offshore. After the deposition, Tony decided to engage a new lawyer and comes to you.

Preparations for trial on the merits are commenced. You went over Tony's testimony many times and Tony repeatedly denied the existence of any offshore assets. One week before the trial, Tony admits to you for the first time that he did indeed have monies in an offshore account but that it would be impossible to prove and it was only \$400,000 and not the millions alleged by Tina. The transcript of Tony's examination denying the existence of any offshore money under oath has been filed into the Court record. Tony will be the first witness in the case. What do you

do?

SCENARIO #5 – family law

Jimmy and Gina were married in 1985 in the regime of partnership of acquests. Divorce proceedings are taken in 1999 and both parties wish to settle all matters between them amicably. Each part produces a truthful statement of their respective assets and liabilities. Settlement discussions ensue and an agreement in principle is reached. Prior to the drafting of the agreement, Gina received an offer for her company, which would triple the value of her shares.

She had reached an agreement in principle and Jimmy had had nothing to do with the success of her business. She retains counsel and asks whether she is obliged to disclose the increase in her assets. What is your advice?

SCENARIO #6 – criminal law, physical evidence

A – The Smoking Gun

A client enters your office, informs you she has just killed someone in the course of a robbery, and places “the smoking gun” on your desk. She also informs you of the whereabouts of the jewels she took from the deceased’s home. She offers to bring the jewels to your office for safekeeping. She explains the deceased is actually her sister, and that she robbed her in order to reclaim their late mother’s jewels which, in her opinion, her sister had wrongfully withheld from her since her mother’s death. She also tells you of a letter she had written to her sister a few weeks earlier in which she demands the return of the jewels “or else”. She tells you that upon receipt of the letter, her sister had stormed into her office, ripped it into tiny pieces, and told her to stay out of her life forever. She, however, kept a copy for herself and asks you what she should do with it.

What responsibilities have your client’s disclosures triggered for

you? More particularly, do you have any affirmative duties with respect to the gun, the jewels, and the letter – the instrumentalities, the fruits and the evidence of motive for the crime?

B – *R. v. Murray*

In the Ontario case of *R. v. Murray*, the accused was a defence counsel who acted for Paul Bernardo in connection with two murder charges and a number of related offences. Bernardo had videotaped the gross sexual abuse of four of his victims, including the two murder victims, and later hid the videotapes in the ceiling of his house. Despite a 71-day search of the premises, these tapes were not located by police. Bernardo, who was in custody at the time, directed his counsel to attend at the house once the police had finished the search, and to remove the videotapes. Counsel did so, after which he retained the tapes for 17 months without disclosing their existence to the Crown, ostensibly for the purpose of springing the tapes on Karla Homolka, the key Crown witness, during cross-examination at trial. Charges were ultimately brought against counsel, alleging the concealment of the tapes constituted an attempt to obstruct justice. Although he was acquitted, counsel’s conduct was subject to sharp criticism by the Court.

What should Murray have done?

C – Double books

Your client calls you, concerned that he is about to be audited by the tax department. His ex-partner recently received a visit from the authorities. He tells you that he has two sets of books and would like to bring you the books for safekeeping. In the alternative, he intends to hide the books at a friend’s house. How do you respond?

SCENARIO #7 – criminal law, Crown disclosure

You are the Crown prosecutor in charge of a sexual assault file.

After full disclosure and many hours of discussions between Crown and defence, the accused through his counsel indicated he wished to plead guilty and present a joint submission on sentencing. The assault took place 20 years ago when the victim was 12-14 years old.

The accused is now in therapy and is very remorseful. He has provided you with his therapist’s report indicating that he has now come to terms with his problem and wants to deal with it.

The week before the scheduled date for his guilty plea, the victim has an accident causing her severe long-term memory loss. It is clear to you she would be unable to testify. Must you inform defence counsel?

SCENARIO #8 – criminal law, identification

Bill Jones is 21 years old and a medical student at McGill. His brother Bob is 22 years old and works in a garage. They are about the same size and look very much alike. On June 5th, they were both at the Red Rose Club with some friends drinking beer. George Green, who was very drunk, was yelling insults at the two brothers and their friends. At a given moment, Bill had enough and threw a bottle in George’s direction. Unfortunately, the bottle hit George on the head; he fell over, and hit his head on the corner of the table. Eight hours later, he died in hospital.

Of the several witnesses, only one identifies Bill as the person who threw the bottle. The others can’t be sure if it was Bill or Bob. Bill is charged with manslaughter. Bob comes to you and asks you to represent him. He wants to admit he threw the bottle and plead guilty to manslaughter. What should you do?

SCENARIO #9 – criminal law, plea

Mr. Herbert was jointly charged with his wife on counts of conspiracy to supply heroin and possession of a controlled drug. On the second day of the trial, Mrs.

Hebert's lawyer was told that if Mr. Hebert pleaded guilty, the Crown would not continue proceedings against Mrs. Hebert. Mr. Hebert decided to change his plea, although maintaining he is not guilty. What should you do?

SCENARIO #10 – criminal law, plea

Three judges from Eastern Canada are attending a conference in Victoria, B.C. One night, they end up at the Blue Whale Café, where Judges Plants and LeNoir drink a great deal of beer. Judge Tranquille, a member of AA, drinks Perrier.

Sometime after leaving the Café, in the early hours of the morning following complaints from numerous homeowners, officer Righteous arrests the three of them for disturbing the peace. Upon their return home, Plante and LeNoir consult you, and because in fact they were making a great deal of noise, agree to plead guilty. It is understood the Crown attorney will suggest an absolute discharge for each of them.

Tranquille tells you he made no noise at all and actually was trying to quiet the other two. After speaking to officer Righteous, the Crown attorney refuses to withdraw the charge unless Judge Tranquille pleads guilty to a municipal by-law violation.

Judge Tranquille reaffirms his innocence. However, he cannot afford the time or money to go to Victoria for a trial. He wants to plead

guilty to the by-law offence. What do you do?

SCENARIO #11 – criminal law

Smith, who is charged with murder, appears before Justice Jones. When the charge is read, Smith offers a plea of guilty to manslaughter. This plea is accepted by the Crown. Jones, J. asks Smith why he shot and killed the victim. Smith replies, "I had no choice. He had a gun and was about to shoot me. It was him or me." Jones, J. then states: "You have a defence; I don't think you should plead guilty." Smith replies: "Judge, I have a lengthy record, a jury won't believe me, and I know innocent people are sometimes convicted. I have heard of Marshall, Milgaard, and Morin. I don't want to take a chance; I want to plead guilty to manslaughter." Jones, J. refuses the plea and 10 days later, as Smith foresaw, the jury doesn't believe his version and convicts him of murder. When asked if he has anything to say with respect to his sentence, he says: "I still had no choice, it was him or me. Now can I plead guilty to manslaughter?"

Was justice done?

SCENARIO #12 – criminal law, drugs

Smith, a medical student at Université de Montreal, is charged with possession of hashish. He and three other students were living in a small three-bedroom apartment near the university. The police, holding a

search warrant, enter the apartment and find Smith studying in the living room. In a cupboard in the same room, a pound of hashish is found in a box. There are no fingerprints or identifying marks on the box. All four students have signed the lease. The Crown disclosure indicates no other evidence and the Crown attorney states the only witnesses are the arresting officers. Smith admits to you the drugs belong to him. How do you defend him?

SCENARIO #13 – criminal law

Jones is charged with robbery. The only issue is whether Jones is the individual who drove the getaway car. He tells you four of his friends will testify that, at the time the robbery took place, they were with him playing cards, miles from where the robbery took place. You interview his witnesses and his alibi appears solid.

The only Crown witness is Mr. Robinson, a senior citizen whose line of vision was somewhat obscured by trees. He is very nervous. Mr. Robinson is adamant as to the identification of Jones.

The day before the trial starts, Jones tells you he cannot sleep at night and that he believes he must tell you the truth: he committed the robbery.

- 1 – What do you do?
- 2 – Can you call the alibi witnesses?
- 3 – Can you allow Jones to testify?
- 4 – How would you approach the cross-examination of Mr. Robinson?

Want to Get Involved? Why not Join The Quid! Just send us an e-mail at quid_novi@hotmail.com

We're still looking to fill the following positions:

- 1. Layout Editors:** VERY important. Get to decide what our publication should look like.
- 2. Associate Editors, French & English:** Also VERY important. Get to fix all the typos, errors etc. in our submissions.
- 3. Managing Editor:** SUPER important, because without this position, we could not afford the Quid. Note that the managing editor doesn't have to solicit firms by phone -- he or she simply sends e-mails and letters, and the advertisers come! Looks great on a resumé!
- 4. Web Editor:** This is the job I did before I became the extremely powerful co-Editor-in-Chief I am today. If you are a generous soul who believes the Quid should be on-line, PLEASE help.

Attention All Students - Computer Lab Policy

Unfortunately, some problems have surfaced with regard to after-hours use of the computer labs in NCDH (2nd floor) and OCDH (basement). In order to avoid losing the after-hours privilege please make sure you adhere to the computer lab policy set out below.

- 1) If you wish to use the labs after hours, the door to the lab MUST remain closed so that you need to use the code to get in.
- 2) In anticipation of the question I know many of you must be asking, the codes for the labs are available in the previous Notice Board or can be obtained at the LSA. For security reasons, I have been asked NOT to publish the codes here.
- 3) It is IMPERATIVE that the door be

kept closed after hours (weekends and evenings). Otherwise, security will kick everyone out and bolt the door locked so NO ONE can get in. This is a McGill wide policy that is in place for safety reasons as well as to reduce the possibility of theft.

4) If you are using a lab, you should ALWAYS have your McGill ID as security may require you to show them your ID. This is to ensure that you are a Law Student as no Non-law students are permitted to use the labs in OCDH or NCDH after hours. We all know security can take their job very seriously (perhaps sometimes TOO seriously), but please just hand them your ID.

5) If you see the door to the lab open when it shouldn't be (after hours), please close it! Thanks!

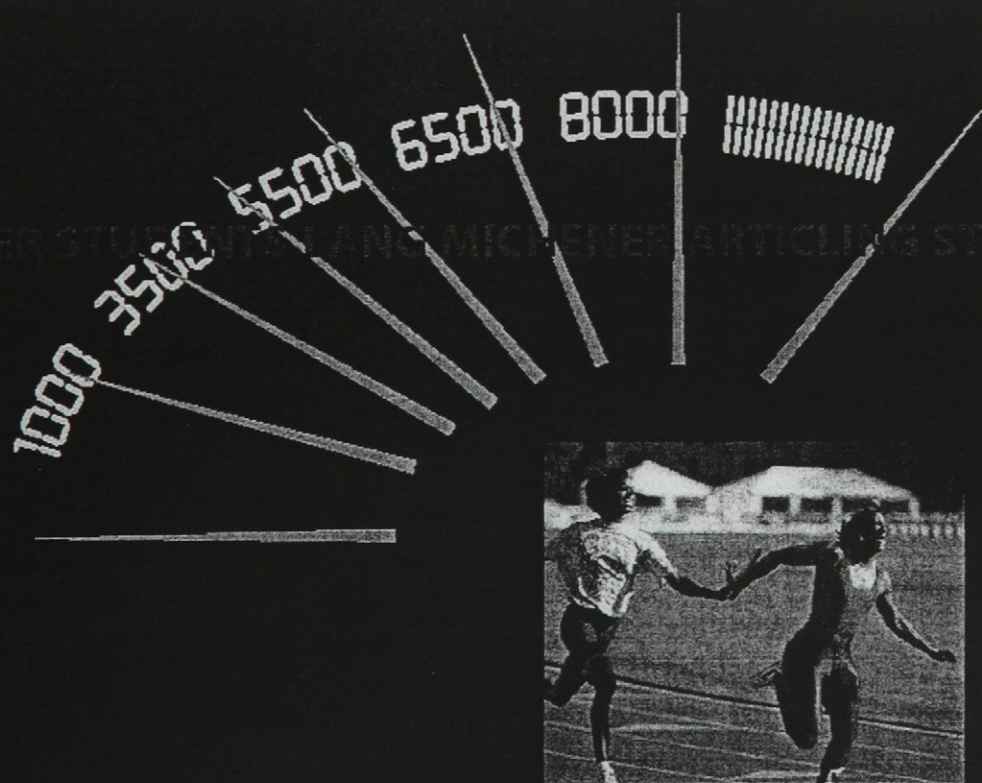
6) If you have trouble remembering the code put a little sticker on the back of

your ID card with the numbers. That way you will NEVER be locked out! 7) Finally, please note that the use of our computer labs after hours is a privilege that has been granted to law students - virtually every other undergrad programme requires their buildings to be cleared once the buildings are closed.

So that is it! Take note and hopefully you won't have any problems in the future. Feel free to contact me with any questions or concerns. Thanks.

As always, best regards,

TJ Schmaltz
VP Clubs & Services



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Sending messages to other user(s)

by Michel Saba, Computer Guy

You could send messages to other users that are connected at the same time as you. The procedure is as follows:

- You should know the user's login
- Right click on the red "N" that appears on the bottom of the screen
- Select :
 - NetWare utilities
 - Send message
 - To users
- Double click on Falaw
- Choose the user (s) that you would like to send messages to. If the same person appears twice, hold down the shift key and left click at the same time
- Do not forget to type your message
- To reply to the sender, write your message and click reply.

Pop Torts

What's Hot at the McGill Legal Information Clinic by Harvey Auerback, Law III

"Make sure mom or dad is with you when you use the [...] toaster."

"[A]djust toaster setting as LOW as it can go. Place toaster in a safe, open spot and make sure it's clean inside (possible fire risk)."

— Warnings on the box of Kellogg's Pop Tarts

What's hot at the McGill Legal Information Clinic? Well, yesterday I got a good chance to find out. I was sitting at my desk, diligently updating the RSQ binders one by tedious one, when I decided to break the monotony and check on my volunteers in the back room. It was then that I found out that the hottest attraction at the Clinic was not, contrary to popular belief, the Director on Duty. It was the toaster. It was much hotter than it typically ought to be. Specifically, it was on fire.

I've been at the Clinic for two years, one as a volunteer and one as a director, and I can honestly say that of all the unexpected events I have witnessed there, a two-foot plume of orange flames emanating from a toaster tops the list.

Oddly enough, nobody panicked. A couple of volunteers were admiring the magical toaster which burned but was not consumed, perhaps in an effort to glean divine inspiration. A calm, cursory glance about the Clinic revealed that we didn't have a single fire extinguisher on the premises. For some reason, the imminent risk of the Shatner Building being reduced to a pile of ashes had a strangely calming effect on everyone.

As luck would have it, one of our other nearby appliances was a kettle with roughly six cups of water in it at the time, and Patrick Trent, our trusty Executive Director, had the wherewithal to use this water to extinguish the blaze. It was only

later that I contemplated the potential implications under our lease if the fire had been left unattended.

At this point I would like to point out that if any of you are considering volunteering at the Clinic this summer but have nagging concerns about your safety, Patrick will be returning as Executive Director for the coming year, and he will be present at the Clinic during all opening hours this summer to safeguard you from any harm. I've also heard (i.e. I'm starting) unsubstantiated rumours that he will perform all future rescues wearing tights and a red cape. Also, in the event of a serious injury sustained in the workplace and preventing you from fulfilling your duties as a volunteer, the CSST will happily pay you 90% of your volunteer salary as compensation. You will, however, have to supply your own TimBits.

After the immediate problem had been solved and the threat of being demoted to Director of Extra-Crispiness had subsided, we embarked on a brief fact-finding mission to determine the cause of the fire. It turns out that one of my favourite volunteers (you're all my favourites, except those of you who spend your shift in Ottawa without warning) had attempted to heat up a Pop Tart in a four-slice toaster. She neglected to heed the warnings reproduced above, and she left her snack unattended to fulfill her duty to the Clinic and answer the phone. Upon her return, she witnessed her erstwhile snack in all its iridescent glory. She sheepishly admitted that neither her mom nor her dad had been with her during her operation of the toaster, which makes me wonder why they put these warnings on the package in the first place, not to mention why they are so often litigated.

I guess the point of this story is that you never know what will happen next at the Legal Clinic. Not only are our volunteers a diverse,

interesting and spontaneous bunch, but our clients are perhaps the most fascinating people (in the clinical sense) you'll ever talk to on the phone. Some make us laugh, some make us cry, and some just boggle our minds. It's one thing to read about frivolous lawsuits, sadistic landlords and other bizarre legal situations in the States, but it's quite another to actually talk to the people involved. It is something that simply has to be experienced.

Those of you in first year will get your first chance to volunteer at the Clinic this summer. If any of you find the law dry, boring and theoretical, I promise you the Clinic can change that for at least two hours a week. Unless you have a full-time summer job, there's no reason at all why you couldn't apply your recently acquired legal education to help others, and at the same time perhaps discover or renew an interest in the human aspect of the law.

Another benefit of working at the Clinic, especially as a Director, is that you get to meet roughly half of the second-year class. I'm in Law III, and I feel like I know every single Law II student here. Let's face it, fully half of your friends will volunteer at the Clinic at some point during their stay at McGill Law, law firms consider it an asset to have volunteered there, and you'll experience people and situations you may never see again, especially if you work at a corporate firm.

I'm graduating this June, and I won't be able to return to the Legal Clinic in any official capacity. I can honestly say that the Clinic is one of the aspects of law school I will miss the most. Do yourself a favour. When next year's Directors come to your Civil Law Property or Contracts class and pass the sheet around for summer volunteers, put your name down. You'll be glad you did.

Just be wary of the more dangerous snack foods.

Things that made me go hmmm....

by David A. Johnson, Nat IV

After nearly four glorious years in the Faculty, a few trifling matters remain for me.

1. How do I get my ranking?
2. The appeal of Ally McBeal.
3. When Prof. Lametti says "...and now for something completely different" in Intellectual Property class, did he get permission from John Cleese?
4. The sudden boarding up or nailing shut of the slots in the desks in all of the classrooms when we returned from our December break with nary a peep.
5. The exquisite taste of Hungarian

salami (non piquante). Actually, it makes me go mmm...

6. Why are lawyers so serious all the time?
7. The library's two-tone red-peach-burgundy-maroon-pink-purple brickwork and the subsequent applause by local architects as a good fit with the surrounding buildings. Bruce Price's work (i.e. OCDH), the closest building and most prominent "fit" is yellow. Yes, yellow. Did the spires also fall off?
8. How the phrase "cones of silence" crept into our legal lexicon via a Supreme Court decision. Agent 86 could not respond with "missed it by that much."
9. The ratio in *Ron Engineering*.

10. The aroma of the tree adjacent to the entrance to OCDH by the cafeteria.

11. Why did they take George the librarian away?
12. Double doors everywhere, yet only one unlocked.
13. The history of common law property.
14. Graffiti in the library.
15. The absence of fire exits in rooms 101 and 102 coupled with the brick resting on the window sill in room 101.
16. The length of Welsh place names.
17. The reference to the main campus as "lower campus".
18. Requests by students to have (i) longer exams or (ii) open-book

GOWLING LAFLEUR HENDERSON LLP ANNOUNCES

GOWLINGS FELLOWS IN TECHNOLOGY LAW

The University of Ottawa, Faculty of Law, recently announced a new, full-time LL.M. program with a concentration in Law & Technology. The program offers students a unique opportunity to learn from internationally renowned experts in Technology Law as well as the chance to intern in the high-tech sector, government or legal profession.

Students admitted into the LL.M. program are also eligible for one of five annual fellowships sponsored by Gowling Lafleur Henderson LLP. With over 700 professionals providing advice in business law, high-technology law, intellectual property and advocacy, Gowlings is one of Canada's largest and most diversified national law firms.

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exams.

19. The definition and application of "notwithstanding".

20. How my worst mark last semester was my favourite course (and the one I put the most effort into).

21. Fall recruitment in Montreal if, and only if, you are going or intending or writing or visiting New York.

For the first time I have written in print "huh?". Chopped liver anyone?

22. Out-of-faculty credits.

23. Being told in first-year to greet (meaning don't ignore them) administrative, library and school personnel. Isn't this normal behaviour? Why were we being told?

24. Law and non-law GPAs.

25. What does a widget look like?

26. How the caramel gets inside a Cadbury's caramilk?

27. Questions in class that begin with "I'm sorry".

28. The dearth of weasel word dictionaries available.

29. (loads!) of wine.

30. The looming, sinister, dark cloud of the École du Barreau – complete with official photographs, birth certificates and Office de la langue française certification.

Reefer Madness: Incarceration Not the Solution

by Pablo E. Bustos, Law III

The prestige of government has undoubtedly been lowered considerably by the Prohibition law. For nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced. It is an open secret that the dangerous increase of crime in this country is closely connected with this.
— Albert Einstein, "My First Impression of the U.S.A.", 1921

Although cocaine, opium, and other drugs were criminalized in many parts of the industrialized world, including Canada and the U.S., prior to the 1920s, the modern War on Drugs, with its huge police and prison infrastructures, began with the prohibition of alcohol in North America. In the U.S., the sale of alcohol was constitutionally prohibited under the 18th Amendment. In Canada, Québec became the only province not to prohibit alcohol, and Montréal, whose bars could legally sell alcohol, became known for being a city analogous to what Amsterdam is today with its cannabis cafes.

The Temperance movement that succeeded in prohibiting the sale of alcohol was founded partially on religious ideologies that had no place

in a secular state, and several years after prohibiting the sale of alcohol, the governments in both Canada and the U.S. repealed this ridiculous law. Not only was such a law difficult to enforce, but it contradicted the basic values of freedom from unwarranted government interference that the political cultures of both Canada and the U.S. were created from. Canada derived this heritage from the U.K., and the U.S. derived it from its constitution, which had strong influence from the U.K.'s political system and appreciation for liberty.

After alcohol once again become legal, the War on Drugs continued. Today, its invidious effects persist against the users of a drug that is significantly more benign than alcohol, namely cannabis.

I should state my biases concerning drugs. I am in a minority in Canada in that I believe that all drugs should be legalized and regulated like alcohol. However, the main purpose of this article is to argue that even if one is to conclude that the coercive power of the state should be used to restrict the use and sale of mind-altering narcotics, the use of incarceration to enforce such restrictions is improper, especially in relation to the relatively benign drugs of alcohol and cannabis.

Although all drugs, including both alcohol and marijuana, have the potential to create social and physical problems, I must firmly disagree with those that claim that the best way to solve these problems is through incarceration. Although the drinking of beer can cause problems, incarcerating people for the drinking of beer causes more problems than the drinking of beer itself. Not only is incarceration financially expensive, it is also socially expensive. A person who did not have a criminally oriented mind before being incarcerated may very well have such a mind after spending some time in jail. Similarly, incarcerating someone for smoking cannabis makes no sense.

Although I would think such a conclusion would be obvious, the United States, and thus by implication Canada, insists on tackling any problems drugs may or may not cause through military or police power. Such a strategy is not only ineffective, it is counterproductive.

The War on Drugs has been surrendered a long time ago. If anyone wants pot, then in Montréal it can be acquired out in the open at the corner of Maisonneuve and St. Denis, next to the Berri UQAM metro station. Several other locations, such as the tam tams on Mont Royal every

Sunday in the summer, or sometimes the area outside the Mont-Royal metro station, serve as similar open vending areas for drugs. The police know these locations openly sell drugs, but remain powerless to stop them because those selling and buying are too numerous. I would like to stress that these vending centers are not secretive, and even my grandmother, who speaks neither English nor French, can spot out what the squeegee kids/Rastafarian look-alikes are doing standing outside of these places.

After the fall of the Taliban in Afghanistan, President Bush II vowed that he would create an Afghanistan, "Free of Terrorists, and free of drugs." By "free of drugs," Bush II was referring to ending the growing and selling of opium, to be turned into heroin. [...]

Bush II's promise to rid Afghanistan of opium farming will fail, and after hearing this I had second thoughts about whether his goal to rid the world of terrorism through military might would also fail. After all, if a person was to make such a preposterous claim that the United States had the slightest chance to eliminate, or even significantly reduce, drug production in Afghanistan through military force, then maybe that same person is spewing out rhetoric on other issues as well.

Even if prohibiting drugs is proper, which it is not, the futile use of incarceration to achieve this objective is so wrong as to be criminal. A disproportionate amount of people in America's overcrowded jails because of drugs are Black or Hispanic, and those that are Caucasian or members of other minorities usually come from poorer families. Such numbers amount to nothing less than systemic discrimination against the poor and are in no way reflective of drug use in North American society, but rather simply the skewed method of enforcing the drug laws. As Bush II and his daughters, not to mention Bush II's niece, daughter of

Jeb Bush, know all too well, drug use affects all levels of North American society.

If Bush II wants to get tough on drug use in his War on Drugs then why doesn't he lead by example? Why doesn't he put himself in jail? After all, he was an avid user of cocaine and other drugs during his life. Bush II got high off alcohol often, and his use of coca plant derivatives is legendary in both its amount and hypocrisy.

Bush II can use military tactics to attack the supply side of

If Bush II wants to get tough on drug use in his War on Drugs then why doesn't he lead by example? Why doesn't he put himself in jail?

drug use all he wants. However, this strategy will fail because people like him, and his family, will always ensure that there is a demand for drugs. Like any good capitalist, Bush II should know that where there is a demand, if profitable, there will be a supply.

It would be a truism to state that drugs are profitable. In a *New York Times* article entitled "Columbia's Coca Up, U.S. Says,"¹ the ever increasing levels of cocaine being produced in Columbia, and the U.S.'s plan to interfere yet again in the affairs of a Latin American state, this time to begin a futile attempt to stop cocaine production in Columbia, was explored.

Bush II first declared a War on Terrorism to fight terrorist groups like Al-Qaeda, and the countries that harbour them; a strategy that I find difficult to succeed in, but which, if contained, I can agree with. Then Bush II stated the War on Terrorism should be expanded to fight countries producing weapons of mass destruction, which I can see the logic too; now he is contemplating another military operation to attack drug producers in countries whose product

the people of the United States, including the President himself and his family, can't seem to buy enough of.

I would feel bad for both the President and the people of the United States if they were to contribute more direct aid towards a futile fight against Columbian drug producers. The cocaine producers, with their huge profits, would probably defeat any attack by the U.S. However, in the unlikely event that the U.S. did stop cocaine production in Columbia through more direct military intervention, other drug dealers would be more than happy to replace the fallen Columbian drug producers, and receive the huge profits that come with such a move.

Bush I, father of Bush II, redeclared a War on Drugs previous Presidents had already declared. By doing so he declared a war on an action, namely the possession, use, and selling of drugs. Similarly, Bush II declared a war on an action, namely terrorism. The problem with declaring war on actions, and not countries or organized groups of fighters, such as an army, is that the enemy in a war declared against an action is uncertain; that is to say, in a war against an action one does not know who one's enemy is.

The danger of fighting a nebulous foe was observed by the General Sun Tzu, who in his book *The Art of War* stated, "Hence that general is skillful in attack whose opponent does not know what to defend; and he is skillful in defense whose opponent does not know what to attack. O divine art of subtlety and secrecy! Through you we learn to be invisible, through you inaudible[.]"²

If the Bush dynasty is fond of declaring war on actions, then why don't they declare war on other actions they find offensive? Why not declare a war on adultery? Why not stealing, saying that anyone who steals more than \$10,000,000 will receive the full wrath of the U.S.

military and police power?

I have a solution to the drug problem: legalize drugs. It would be consistent with Thomas Jefferson's belief that, "That government is best which governs least, because the people discipline themselves." Instead of incarcerating those who drink beer, why not just allow people who are alcoholics to fight their problems themselves? Wouldn't this be more effective in helping this person cope with alcoholism than putting this person in jail? The Temperance movement of the early 20th century would not have thought so. Similarly, those supporting incarcerating users of drugs even more benign than alcohol, such as cannabis, believe that any problem marijuana causes is best solved by placing those who possess, use, or sell cannabis into cages. To treat users of cannabis like animals in a zoo are treated. To be placed in cages for no other reason than doing exactly what Bush II and many of his family members have done on a myriad of occasions, namely use drugs.

I'm not too worried about the

current state of affairs. Drugs are already *de facto* legal in many respects, and one day they will be legal *de jure*.

Civil disobedience has been used before to change unjust laws, although those now breaking the drug laws differ from other people who have used civil disobedience to change laws. Mahatma Gandhi was motivated by altruistic reasons, and drug dealers by making money. Drug users are usually motivated to break laws for its recreational effects, while Martin Luther King was motivated by a desire to redress injustice. Many in the criminal underworld would prefer if drugs remained illegal, for that would be better for business. However, at the end of the day it will be through civil disobedience that the defeat of those condoning the prohibition of drugs will occur; or more precisely, a defeat which has already occurred will finally be recognized.

There will always be greedy people willing to risk jail time for selling drugs, if such a risk would, and does, result in huge profit levels. Similarly, as Bush II and his family

know all too well, there will always be people willing to pay to change their state of consciousness through drugs.

There is no way to stop drug use in North America. None. Using police power to eliminate drug use is not only futile, it also causes more problems than it can ever, in the wildest and most far fetched theories, ever solve. Incarceration is not the proper response to drug use. If it was Bush II wouldn't be President, he'd be another number living in a cage. Unfortunately the rest of us don't have family connections that can get us out of jail. For the rest of us, you're either with the War on Drugs or you're with the terrorists.

¹ New York Times, March 9, 2002, online at <http://www.nytimes.com/2002/03/09/international/americas/09COCA.html> (date accessed : March 9, 2002).

² See Chapter 6 of Sun Tzu's book *The Art of War*, a chapter entitled Weak Points and Strong.

Spring-time in Montreal

by Hoi Kong, Nat IV

Note: I wrote this during reading week, and since then, events have proved virtually every claim, factual and metaphoric, in this text to be wrong. It has snowed in Victoria, Montreal has experienced a real spring, complete with singing birds and the premature wearing of shorts, and with Skit-Nite, the Faculty has once again shown its capacity for sheer open-hearted generosity. Ah well, sometimes you're wrong and sometimes, as my scientist friends used to say of egregiously off-base theories, you're not even wrong.

It's been a warm couple of days in Montreal. The sun has shone brightly and small oases of green are visible on the front lawn of the Faculty.

Some have been inspired to remark: "It's spring." They are of course, wrong.

First of all, it is never spring in Montreal. There is a one-week period when the snow melts and rivulets of shit flow down the streets and sidewalks, but then summer comes. One week does not constitute a season for the same reason that the Gazette isn't really a newspaper. There simply isn't enough there.

Second, odd days of sunlight interspersed through the long dreariness of winter, while humanizing and otherwise laudable, cannot be called spring. In the middle of the country, I think they call this kind of thing a "Chinook". I wouldn't know for sure. I was born in Edmonton, but after witnessing one winter there, my

mother high-tailed it to Victoria, where I grew up. Until I was seventeen, the *only* season I knew was spring. Some months were cloudier than others, but there were always flowers blooming. Anyway, this breaking up of vast swaths of coldness with small patches of warmth is familiar to me from another context. It is called law school.

The strange intermingling of warm personal attention and cold institutional neglect begins each semester with registration. You dial up, eager to engage the new academic year, and are met with a "welcome". "Welcome" calls to my mind the voices of friends and relatives, chattering as they take my luggage while I fake resistance; it brings up an image of a brown-carpeted rec-

room with the sofa-bed laid out, all cozy. The "welcome" that comes through the phone in early July is delivered by a robot and you are welcomed not to the suburban hearth, but to a point in vastly impersonal space. You are welcomed to Mars.

Personal warmth and institutional coldness do constant battle in this faculty. The long process of learning, of personal and intellectual growth is officially encapsulated at the end of each semester by a series of ciphers, which oddly enough, the registration robot seeks to invest with a human touch: "'C' is for Charles". But not too familiar, it's not Charlie, and never Chuck. The battle between the personal and the official results, for legal theorists, in three possible configurations: the official has primacy over the personal (this is legal positivism), the personal and the official coexist in their separate spheres (this is legal pluralism à la Sally Falk Moore) and the personal and the official intermingle and overlap (this is the legal pluralism of the Law Commission of Canada's web-site). In the life of the student,

the first configuration is best represented by the one hundred per cent exam, and the second by the holding of classes during coffeehouse. The third configuration deserves a paragraph of its own.

The other day I saw the owner of The Word meticulously laying out the books for the day's window theme. I found that quiet careful gesture incredibly moving for the same reason that when I take time to notice, I'm moved when I watch Bruce remove the circulation desk screen at the library's opening, listen to Harold make the p.a. announcements at its closing, and mark, with over-the-counter banter and Earl Gray tea purchases at Pino's, the passing of another day at school. In the care taken and given in the fulfillment of everyday official obligations there is a kind of beauty. It's often said that in Asia, there was never a clear separation made between "art" and "everyday life". In the Asian aesthetic (yes, yes I know: what do I *mean* by "Asian", am I not essentializing a culture? Yes I am. Now leave me alone.) proper atten-

tion paid to the objects and events of everyday life can elevate the prosaic. So, a bowl can be both something you sip tea from, and a national cultural treasure; the court official's careless footstep can serve as the source of a great poet's inspiration; and every Japanese convenience store is a house of *couture*, with all the teen-aged Yohji Yamamotos lined up for their slurpees. I don't see why this aesthetic attitude cannot be transplanted (essential cultural differences aside), and why, for instance, the tediously bureaucratic act of renewing a book cannot be an opportunity for genuine human connection. There are six weeks left in my overlong academic stay here. While it would be impossible to pass the remainder of my time here enveloped in warm conviviality—I am not, after all, Mary Poppins, and New Chancellor Day is, after all, a concrete bunker.—I'm going to be attentive to the small acts of decency and kindness that are always here for the noticing. I am going to find the spring in the middle of this winter.

Pino & Matteo's Crew Back on Track

by Stephen Panunto, Law II

Pino & Matteo probably breathed a sigh of relief two Friday nights ago, as their Chico Resch team came back from probably their worst game of the season to end the regular schedule, with what could have been their best game all year to start the playoffs, resulting in a 5-3 win.

Perhaps it was the shame of being publicly vilified in the Quid a couple of weeks ago, but an ordinary bystander would hardly believe that this was the same team if the two last games were compared. In the playoff opener, Chico outskated, outhustled and generally outplayed the opposition. Forwards were backchecking and the defensemen were more

cautious about jumping into the rush, yet it did not seem as though any offence was sacrificed. The return of Adam, winner of the Pino and Matteo Cup (for most three-star selections), no doubt had a significant impact, but every single player raised their game at the right time.

Two more factors made this victory all the sweeter: first, we beat a team that had beaten us during the regular season. Second, it was the Medmen. Despite some cheap tactics — like at the goalie after the whistle. Greg Webber was the victim of the worst cheap shot, however. After being tripped at the blueline (for which their player was being penalized), Greg was trying to free himself

after getting tangled up with the opposing defenseman. Out of nowhere, another player, completely uninvolved in the play, skated across the ice and grabbed Greg and started to choke him. The only bright side to this (besides, of course, the fact that Greg wasn't seriously hurt, except for a nice red mark on his throat) was that the player who did this happened to be their best defenseman. As I am sure Pino & Matteo would tell Chico, it is always important to keep your cool in the playoffs, no matter what the situation — especially when it comes to dumb retaliatory penalties.

While practically the whole team played like stars in this one, a few stood out. Brandon scored a goal

and played terrific both ways. Sandy must earn an honourable mention, because he seemed to be everywhere – winning faceoffs, backchecking and starting the rush, beating guys to pucks, pounding defensemen into the boards (without drawing a penalty, mind you). The third star went to **Adam**, thanks to an assist, several booming point shots and another solid defensive performance (plus-3). The second star went to **Dinesh**,

thanks to his goal and three assists. And again, 2/3 of the stars go to the Vegan line (the other member of the line, Cam, also scored a goal), as **Dave Dixter** earned the First Star after potting 2 goals and adding an assist to go with a plus-three.

Chico's next game is late this very evening (if the Quid comes out on time), Tuesday night at 11:30pm. If we win that one, the semi-final is Friday at 8:30, and the Championship

Final is Sunday at 2:15 (not that we are looking ahead at all, it's just in the interest of keeping out loyal fans informed, since the *Quid* only comes out every week). And if we are in the finals, we all hope to have a little fan support – it is really shameful that the Med team had way more support than us, and Becky is getting really cold sitting in the stands alone every game. So hopefully we will see you out there.

ANNIE MACDONALD LANGSTAFF

INDIGNITIES: USING TORT TO REMEDY RACIST & SEXIST ASSAULTS ON DIGNITY

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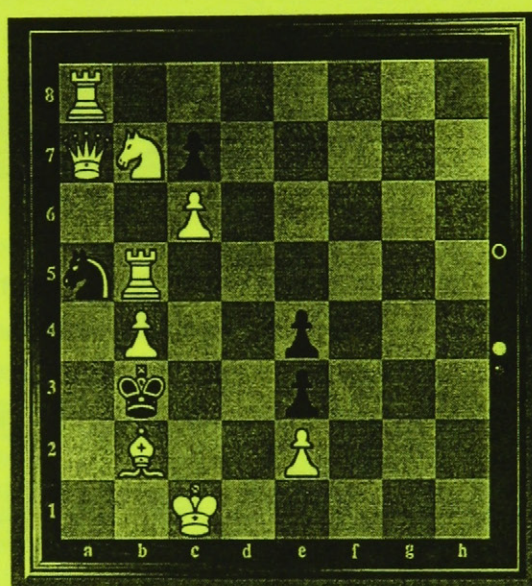
by Pablo Bustos, Law III

Gun control is a controversial topic in both Canada and the U.S., but especially in the U.S. where the constitutional right to bear arms, as seen in the Second Amendment, often leads to colourful debates on the topic. My personal view on "the right that protects all others" is best expressed by quoting the words of Edward Abbey, who in his book *Abbey's Road* wrote, "Let us hope our weapons are never needed —but do not forget what the common people knew when they demanded the Bill of Rights: An armed citizenry is the first defense, the best defense, and the final defense against tyranny. If guns are outlawed, only the government will have guns. Only the police, the secret police, the military, the hired servants of our rulers. Only the government — and a

few outlaws. I intend to be among the outlaws."

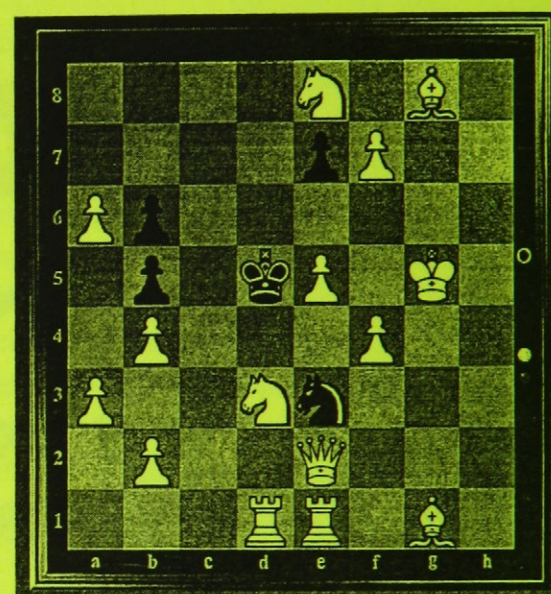
P.S. As the copyright agreement I entered into at the beginning of the year allows me to copy 15 problems,

Semi-Clone A)



and since I have 5 problems left to copy, and only 4 Quids left before the end of the year, I've semi-cloned the problem today. White to play and mate in two moves.

Semi-Clone B)



Solution

Solution to semi-clone a) – The queen on A7 moves to B8. Black makes any move. White mates accordingly. White mates accordingly. The pawn on E5 moves to E6. Black makes any move. White mates accordingly.



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